

research. I know how proud FRITZ is of the nationally respected cancer research and treatment center at the Medical University of South Carolina, now known appropriately as the Hollings Cancer Center. In fact, at his farewell gala a couple months ago that I went to downtown, FRITZ HOLLINGS raised more than \$2 million for the center's programs.

Well, it would take a long time to stand here and do justice to Senator HOLLINGS' legacy of legislative accomplishments. I will not do so. I am tempted to do so because there is so much there. But those of us who have served with him over the decades know there is no more dedicated fighter for fiscal conservatism in this body or anywhere in this Congress. There is no one who has fought harder for what I call fiscal rationality in our spending and taxing programs than FRITZ HOLLINGS.

There is no one who has done more when it comes to protecting our oceans and coasts. It was Senator HOLLINGS who passed the Coastal Zone Management Act in 1972, the Marine Mammal Protection Act of 1972, the Oceans Dumping Act of 1976, and the Sustainable Fisheries Act of 1996. So the next time you go out to look at whales or you see the dolphins swimming, the next time you walk along a beach and you don't see all that junk washing up on the shoreline, thank FRITZ HOLLINGS. He led the charge on it.

And long before it became fashionable, FRITZ HOLLINGS was speaking out against the indiscriminate outsourcing of American jobs, first in the textile industry, then jobs in the steel industry and manufacturing. In literally scores of speeches on this floor, he has educated Members of this body about the fallacies and human costs of so-called free trade. That is not fair trade. He has spoken out with passion and persistence for fair trade and a fair shake for American workers.

FRITZ HOLLINGS leaves a personal legacy in this Senate. We will always remember his sharp mind in debate, his wit, and a very sharp tongue that could cut to the quick and get at the essence of what the debate was all about. And there is no one who had a greater sense of humor or was more generous and more kind than FRITZ HOLLINGS. He could craft humor about others, and he could craft humor about himself—a great individual, FRITZ HOLLINGS.

I would be remiss if I did not also publicly pay a big thank you to FRITZ HOLLINGS for the opportunity he gave me 16 years ago. I had just been elected to the Senate. I was in my first term. It was 1988. Lawton Chiles, who was then a Senator from Florida, was retiring as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education.

I was a freshman Senator. I was at the bottom of the ladder. So Lawton left that position and went back to Florida. Most of the Democrats ahead of me—the Democrats were in charge at that time—had other subcommittee

chairmanships they didn't want to give up. So it came down to FRITZ HOLLINGS and me. I knew of the passion that FRITZ had for health and education issues. So I assumed he was going to take chairmanship of that subcommittee. But I called up FRITZ. I let him know that if he didn't take it, I was next in line, that I always had a great interest in this area. Well, he said he would take that into consideration. I will never forget it. I was at home on a Sunday night. He called me up and said: Well, TOM, I have been thinking about this. He said I would really like to have the Labor, HHS, Education; this is in my interest. I have spent so much time on health issues.

Well, I thought this was his nice way of telling me, I am sorry, TOM, I am going to take the chairmanship, tough luck. But at the end, he said: Well, I want you to know I am going to stay with the Commerce-State-Justice Subcommittee.

I could hear him laughing. He had kind of strung me out during this whole phone call, leading me to the point where he was going to say, I am really sorry, TOM, but I am going to take it. Then he turned 180 degrees and said: I am going to stay with Commerce-State-Justice. I could hear him chuckling in the background, knowing that he had given me a great gift.

It was a huge opening for me as a freshman Senator to chair the second largest Appropriations subcommittee. I will always be grateful for the confidence and the trust that he had in me at that time. I hope I have not disappointed him.

FRITZ HOLLINGS has cast more than 15,000 votes here. He has passed major bill after major bill. He has spoken out courageously on issues of war and peace, trade and budget, civil rights and human rights. He has been a voice for the poor and for the sick and for those who have no voice in the political arena. I know FRITZ is very fond of a particular quote from Elihu Root, Teddy Roosevelt's Secretary of State. Those of us who were at the farewell banquet for FRITZ in September heard him repeat it on that occasion. He said:

Politics is the practical art of self government, and someone must attend to it if we are going to have self government. The principal ground of reproach against any American citizen should be that he is not a politician.

For more than five decades, FRITZ HOLLINGS has been a proud politician, an extraordinary public servant, one of the truly magnificent Senators in the history of this body. We will remember his legacy. I am going to miss him as a friend and as someone I could converse with, gain insight from, and share a laugh with, listening to FRITZ go on about fiscal responsibility.

Peatsy and FRITZ have been a team. I was fortunate to have taken a congressional delegation trip with FRITZ and Peatsy last December. We went down to Brazil, looking at all the dif-

ferent things in Brazil—everything from rain forests to agriculture to labor conditions. It was truly a magnificent week to spend with FRITZ and Peatsy. I will never forget it. I will never forget both of them. So I wish both FRITZ and Peatsy a long and wonderful retirement in their beloved Charleston, SC.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

A DEEPLY FLAWED PROCESS

Mr. CONRAD. Madam President, we are here late on a Saturday afternoon as part of what has become truly a deeply flawed process.

We have been presented with this huge stack of paper. I think this is well over 3,000 pages. We got it in the middle of the night. We didn't have a hard copy until somewhere after noon today. We are being told that we will vote on it shortly. It reminded me very much of attending one of the State of the Union Addresses in my first years in the Senate. It was in 1988. President Reagan was talking to the Nation, and he held up what was then a conference report that he reported was over a thousand pages long, weighing 14 pounds. Then he held up a reconciliation bill that was 6 months late and was 1,200 pages long, weighing 15 pounds, and a long-term continuing resolution of over 1,000 pages, weighing 14 pounds. He reminded us that was 43 pounds of paper and ink, and you had 3 hours—yes, 3 hours—to consider each. He said it took 300 people at his Office of Management and Budget just to read the bill so the Government would not shut down. He concluded that Congress should not send him another one of these. He said: If you do, I will not sign it.

President Reagan was right. This is not the way we should do the people's business. We should not have, late on a Saturday, 3,000 pages; and there are not more than a handful of people here who know what is in it. I know what is in it for the State of North Dakota. I know that. But I don't know what else is in here.

I have found one thing that is in here that I think will shock every one of my colleagues. There is a little nugget tucked away in this package that says the Appropriations Committee chairmen, or their designees, can call up the tax returns of any individual, any company and, without civil or criminal penalty, do whatever they want with those returns.

Madam President, think about that. Are we really going to pass legislation that says an Appropriations Committee staffer can look at the individual returns of any American, any company, and there are no civil or criminal penalties for their release of the contents of that return? I don't think so. That is in this stack of papers.

We have provisions saying that the chairman of the Finance Committee

and the chairman of the Ways and Means Committee can look at individual returns. They are the only Members of Congress who can do that, and there are very severe civil and criminal penalties if they were to release what they saw there. Those are privacy protections for every American taxpayer, every individual, every company. We protect the privacy of those returns with stiff civil and criminal penalties for the release of the information gained in those returns.

All of that is thrown right out the window in this stack of paper because it provides that the Appropriations Committee chairman, or their designees, can have access to the returns of any American, any individual, any company; and there are no civil or criminal penalties for the release of the information contained therein. I say to my colleague from Idaho I don't think this is his idea of protecting the privacy of the American people.

Mr. CRAIG. Madam President, if the Senator will yield, the Senator brings up a critical point. Would he cite the page and the subparagraph to the body? Clearly, the Senator is stating a charge, if you will, that is very critical and very important for all of us to understand. No one, without court order or subpoena ought to have that kind of authority.

Mr. CONRAD. Madam President, there are so many different page numbers on this page, I am not sure which of these page numbers is the relevant page number.

There are at least three page numbers on the page. That is how slapdash this whole thing is. There is a page number 802, there is a page number 1112, and there is a page number 85. Take your pick. This is what it says, and I quote it to my colleague, section 222:

Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairmen access to Internal Revenue Service facilities and any tax returns or return information contained therein.

That is the provision that is in this stack of paper. That is an outrage. That is absolutely beyond the pale to allow staffers here the access to tax returns of any American citizen, of any American company with absolutely no civil or criminal penalties for the release of that private information.

What is going on here that we have a stack of paper that has a little nugget like that stuck in? That cannot be.

Mr. LEAHY. Will the Senator yield for a question without losing his right to floor?

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Vermont.

Mr. CONRAD. I will be happy to yield.

Mr. LEAHY. Mr. President, does that mean—it just boggles the mind—this goes way beyond the wildest dreams,

for example, of J. Edgar Hoover. Does that mean, for example, if somebody in the press criticizes the chairman or if a constituent wrote in and criticized some action of the chairman or, let us say, that some Member of Congress dared to vote against a bill of the chairman, their staff could just go and grab all their tax returns and then just give it to anybody and have no penalty?

I realize this is not the old former Soviet Union, but this could possibly happen in America?

Mr. CONRAD. Unfortunately, it is contained in this bill. This bill is very clear:

Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairmen access to Internal Revenue Service facilities and any tax returns or return information contained therein.

And there are no provisions in the civil law or the criminal law that would protect the release of that information.

I tell you, when my staff came upon this and brought it to my attention—I used to be a tax commissioner, and one of the things that is understood by anybody who deals with tax information is that there are rights to preserve the privacy interests of any taxpayer. We have long held in this body and in the body on the other side of the Capitol the people's right to privacy would be protected.

This provision, I am told, was stuck in at about midnight last night. Without any debate, without any discussion, without any Democrat in the room, it was stuck into this monstrosity of a bill. I think that is just one more indication of how dangerous this process has become—3,000 pages dumped on our desks, and we are told to vote in just a few hours.

There is nobody here, other than those who have been in the room, who can understand what is in this bill. If we gave our colleagues a quiz on what is contained here, I do not think very many of them would pass.

Something has to be done here. This cannot become the law of the land.

Mr. MCCAIN. Will the Senator yield?

Mr. CONRAD. I will be happy to yield.

Mr. MCCAIN. Madam President, my only question to the Senator is, is he really surprised that something egregious should be in this long package that none of us have seen or read until a few hours ago? Does it really surprise the Senator when we find it packed full of goodies for special interest and policy changes and all kinds of things that are passed into law that otherwise would not bear scrutiny? Is he really surprised that all of a sudden now we just pass some other barrier?

Isn't it also the fact this is in a bill that none of us have seen or read? Should it surprise us that finally hap-

pened when we have a system that is broken? The system is broken. This is 9 of the 13 appropriations bills that have never seen a debate or discussion or amending. None, never. So now we find something that—thank God for somebody's staffer who found it buried on page—what did the Senator say, page 1,000-something?

Mr. CONRAD. Madam President, I say to my colleague, my friend, you cannot even tell what page number it is because on these pages there are three different page numbers. Page 802, page 1112, page 85—take your pick.

Mr. MCCAIN. If I can finally ask my colleague, doesn't it really argue again that we have to fix a system that is broken? Here we are, everybody trying to get home for the Thanksgiving recess, and we are going to debate and vote on this "as quickly as we can" and anybody who extends the debate is being terribly unfair to their colleagues. I have already had four colleagues who have airline reservations come up to me and say: Please don't talk too long this time; you're not going to hold up this bill, are you?

I am not the one who caused this bill to not appear before us when we have been here for the entire year without acting on nine of the appropriations bills. The system is broken, and sooner or later we better fix it.

I am going to identify billions of dollars of pork that are in this bill that have had no scrutiny, no competition, no nothing except a testimony of the influence of some member of the Appropriations Committee.

I ask my colleague if he is surprised this should happen.

Mr. LEAHY. Will the Senator yield for a question?

Mr. CONRAD. First, let me answer the question of the Senator from Arizona. Am I surprised? I am not surprised there are things in here almost nobody knows about. I started out by going back to President Reagan's admonishment to us never to permit this to happen again. That was in 1988. This is 2004, and here we are again 16 years later with over 3,000 pages dumped on our desks, and we are told to vote on this in a few hours. Nobody knows what is in here. We have been scouring this bill—thank goodness some sharp-eyed aide of mine saw this little nugget.

I must say, I am surprised something such as this could even get through a flawed process like this one. I am amazed we are about to pass in the Congress of the United States a provision that would allow some staffers to look at any tax return of any individual, of any company, and not have civil or criminal penalties apply to them for the release of that information.

I tell you, that is serious. That is serious.

Mr. LEAHY. Madam President, will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield to the Senator from Vermont.

Mr. LEAHY. Madam President, the suggestion has been made that the system is broken. Of course, I thought it would work far more smoothly with a Republican President, a Republican House, and a Republican Senate. We had actually passed a budget back last April, which by law we are required to do.

Madam President, will the Senator from North Dakota agree that there is at least one glimmer of hope here on the system working? This was put in by the Republicans in the House, and at least the Democrats in the Senate discovered it. So to that extent, there is at least a glimmer of hope.

Mr. CONRAD. I say, in answer to my colleague, I agree with the Senator from Arizona, the system is broken. The system is completely broken when we have 3,000 pages dumped on our desk and we are told to vote in 3 hours.

Now, that does not make sense. Members do not know what is in this. We find egregious provisions such as this one tucked away that people did not review, did not debate, did not discuss, did not have a chance to amend, have not had a chance to vote on, and all of a sudden it is contained in here. That cannot be.

The PRESIDING OFFICER. We are currently in morning business with a 10-minute time limit, and the 10 minutes of the Senator from North Dakota has expired. The Senator from Montana.

Mr. MCCAIN. I have a parliamentary inquiry. Where are we on the bill?

The PRESIDING OFFICER. We are in morning business.

Mr. MCCAIN. When do we expect to take up the legislation itself?

The PRESIDING OFFICER. That has not been determined.

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I happen to be the ranking member, that is the most senior Democrat, on the Finance Committee. In years past, I was chairman of the Finance Committee when this side had the majority.

Mr. SARBANES. Those were the halcyon days.

Mr. BAUCUS. Yes, those were the halcyon days when this country was represented really well.

But I might say the provision we have been discussing; namely, the degree to which Members of Congress should have access to any American's income tax returns, is really an outgrowth of the Nixon years. That is, in the Watergate years, when too many Government officials had access to individuals' income tax returns and we enacted so-called Watergate reforms, one of the reforms was a section in the code which basically provides that no one in Congress has access to any American income tax return—as well they should not—except for the chairman of the Finance Committee and the chairman of the House Ways and Means Committee, the committees that have jurisdiction over our tax laws.

Someone might ask, why should they have jurisdiction? Why should the chairman of the Finance Committee have the right to look into an individual's tax returns? That is a question that should be asked very seriously and it is one we should take very seriously.

But the reason that is in the law today is so the Finance Committee can exercise jurisdiction or proper oversight over our Tax Code, especially looking into how companies, maybe individuals but certainly companies, use the tax system to shelter their income—what do they do; how do they do it—so we in the Congress can enact legislation that closes those loopholes. That is what we have done.

Within the last couple of years, with the so-called Enron reforms as we looked at Enron's tax returns, we found a lot of provisions where actually the company was overstating assets in a certain area and understating in another, sheltering a lot of income, clearly not in the spirit of the income tax returns.

I might say, too, that, frankly, the Tax Code is so complex and the returns are so complex it is difficult for the enforcement agency, the IRS, to look at all of these shelters and to enforce the tax law.

As we know, a low percentage of tax returns are currently audited, and it is very difficult for the Joint Tax Committee because they do not have the resources to look at all of this.

The long and short of this is that we in the Finance Committee, the chairman of the Finance Committee and his staff, looked at income tax returns, including Enron, and we made appropriate deletions to protect proprietary interests. Nevertheless, we thought we should exercise that responsibility and we did, very carefully and professionally, and the result was not to use individual tax returns but, rather, closing a lot of loopholes of which companies, in this case Enron, were unfortunately taking advantage.

The current law also provides for civil and criminal penalties for any unauthorized disclosure by the chairman of the committee or authorized staff of any unauthorized information, which there well should be. If any of us were to divulge any of the information we might have, we go to jail, and we should.

The provision we are talking about here, that is, in this big appropriations bill right in front of me, basically says the chairmen of the Appropriations Committee, House and Senate, have the same authority, and that they can also exercise that authority and have access to income tax returns without any penalty whatsoever, no criminal penalties, no civil penalties, for any unauthorized disclosure.

Well, what does that mean? It does not take a rocket scientist to know that means anybody on the staff of the Appropriations Committee can just take that tax return information and can go to the press, can use it however

they want on anybody, without any penalty. That is an outrage. Even in the dead of night, who would try to enact a provision like that? And that is what the majority has done very late at night.

My staff happened to find this provision several hours ago. I called them this morning to see what they found in the conference report. They said: We are still trying to download it. We divided it into different parts. We are not going to be able to go through it all until 5 o'clock today, not even see what is in this conference report until 5 today. That is about eight or nine people in my office, each downloading from the House Ways and Means Web site various portions of what is in this conference report.

I am informed that the House has gone out. I do not know if that is accurate, but I am informed the House has adjourned and that is highly, highly reprehensible. They passed this provision in the middle of the night, did not tell a soul, did not consult with the Finance Committee, did not consult with the House Ways and Means Committee. They certainly did not consult with the Finance Committee. The chairman of the Senate Finance Committee found out about this a few hours ago and he is as upset as I am. The chairman of the Senate Appropriations Committee, Mr. STEVENS, I am told he did not even know this was in there until a couple of hours ago when he was informed about it. That is what I am told. He did not know it was in there. Come on.

It seems to me that the one resolution yet available is for the Senate to amend—it is a procedural motion here—the enrolling resolution, to strike that language and send it back to the House.

I have to figure out there is a way for the House to stay and meet. I am told they are just doing special orders or something like that. I am told they have not adjourned sine die. It is clear that if they want to change this, the House of Representatives can find a way to change it. They can find a way if they want to. If they do not, I have to reach one conclusion, they do not want to. They want to give the Appropriations Committee chairman this unfettered access to individual income tax returns and the ability to release it to anybody in the world without any punishment, without any civil penalties, without any criminal penalties.

I ask the House of Representatives, I ask the Speaker of the House, I ask the leadership of the majority party in this body, to find a way to get the House of Representatives to accept our resolution.

I have been told we will have a colloquy or we will take this up later. We all know what happens when we take things up later—it does not happen. Things have a way of getting lost. One has to strike when the iron is hot. The iron is really hot now.

When the American public hears about this—we can bet dollars to

donuts there is probably nobody in the press gallery right now because they are out writing their stories about this—we are going to hear about this and I would think that the majority party would like to nip this thing in the bud and get it done right now and not have it in the press for weeks and months because it is on the doorstep of the majority party of the House and the Senate. It is on their doorstep. If they want to change it and delete it, they can do that. If they do not want to change it or delete it, then they are not doing it.

Since I have been in this body, I cannot think—I am sure there are others but I cannot think of an outrage as reprehensible as this one. Can my colleagues believe it, unfettered access to individual tax returns which are supposed to be private income, that can be divulged to anybody without any sanctions? Come on. How can anybody even conceive of suggesting something like that? Somebody did it in the middle of the night, and I might say we still do not know what is in this legislation. As I said before, the chairman of the committee did not even know about it. The chairman of the Appropriations Committee did not know about it. They do now, and I call on them to do something about this to get this problem solved right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, this is what happens at the end of a session when things go bump in the night and on your desk you find a stack like this. I am a member of the Appropriations Committee. A lot of work has gone into this, but by waiting until the end of the session to put all of this in front of Members of Congress, it becomes literally impossible for us to meet our responsibility to say to the voters we represent that we know what is here; it is good for America, and we are voting for it. You have to operate on faith.

That faith is shaken if not destroyed when something comes through like this. If there is anything we are supposed to respect in this country, it is the right of privacy, particularly when it comes to Government records. To slip in this section 222 in the Treasury appropriation, and give to certain Members of Congress and their staff access to individual income tax returns which they can order up from the Internal Revenue Service and then use the contents with impunity, in other words, without any threat of civil or criminal prosecution if they disclose them, is to create a situation which, frankly, is beyond description.

We talked about enemies lists 40 and 50 years ago in America, where administrations would decide which Americans were not friendly and there was a hint or suspicion that the Internal Revenue Service was going to look at their tax returns. That is as far as it went.

Forget the hint of suspicion, this is an outright delegation of authority to

elected officials in Congress and their staff to order up the tax returns of any person they choose. Could it be their opponent in the last election? Or maybe the candidate who might run against them next time? Could it be a whole branch of contributors to certain causes? All of those things are possible under this.

It strikes me as odd, if we are going to respect the right of privacy for individuals in this country, that we would delegate this authority and then say that the staff people and Members of Congress who use it can disclose the contents to the public without any fear of prosecution. They could turn them over to the press. They could use them on these talk shows. It could happen.

In case this sounds as if it is in the realm of the ridiculous, it happened to be on the Senate Judiciary Committee on Capitol Hill that a staffer hacked into my computer and stole 2,000 documents from my computer and turned them over to the press and special interest groups in Washington. He was caught, thank goodness, and now there is an investigation underway. But he was using material from my staff and my office in an effort to not only try to anticipate what might happen in the committee, but to use it against me politically. That happened at the Senate Judiciary Committee, the committee responsible for reviewing and designating future Justices in the Supreme Court. It happened within our committee.

Now what we are saying is we will write into law the access of Members of Congress and their staff to, not just the computer memos generated in my office, but income tax returns; that they could have access to an individual income tax return and disclose it with impunity, without any possibility of being held accountable for that fact. That is a troubling development.

I do not know who is responsible for it. It happened in an appropriations bill that it turns out at least Members on this side of the aisle were not aware it was included. But think about the fact that we are dealing with some 3,400 pages of legislation here. It is not possible for us to read through every word of this, every paragraph, and to find out if we can trust the contents of this to be something that is good for America and something about which we can cast our vote in favor.

I thank my colleagues for coming to the floor—Senator CONRAD from North Dakota, Senator BAUCUS from Montana and others, Senator MCCAIN from Arizona, for bringing to light this outrage.

It is not enough for us to limit this outrage to the point where we say we will pass it today and take care of it tomorrow. What happens in the meantime, after this is signed into law? What will happen? I don't know.

But we will be giving legal authority to individuals to misuse income tax returns of individuals, families, and businesses across America. That, in my mind, crosses a line which we should never allow to be crossed.

The Government serves us. We are the masters of this country because, in a democracy, the voters rule. When it reaches a point that you have to worry about the tyranny of a government invading your privacy, disclosing information which they have no business to publicly disclose, then we have crossed a line which we should never cross.

Mr. SARBANES. Will the Senator yield for a question? As I read this provision, the chairman of the Appropriations Committee could send what are called agents—which I take it means staff?

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order.

Mr. SARBANES. Then the Commissioner of Internal Revenue is required to give them access to the Internal Revenue Service facility and access to any tax returns or return information contained therein. So they, in effect, have a carte blanche to gain access to any tax information involving any tax return. Is that correct?

Mr. DURBIN. That is my understanding. I would say to the Senator from Maryland, as you read it, it is even more expansive than I described it. I talked about asking for a tax return. As you read this language, they could ask for all of the tax returns of certain individuals or people living in certain areas or people working for certain companies or people contributing to certain charities or contributing to certain political candidates. They could go in and ask for all the information, and can do it without any penalty under law if they disclose that information or misuse it.

To think that we would give this authority in an appropriations bill of 3,400 pages, and we stumbled upon it in the last few moments, is an indication of some of the troubling possibilities in this piece of legislation.

Mr. SARBANES. The Senator is absolutely correct. I thank the Senator for answering the question.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to say to my colleagues who read this bill—I don't know if I can hold it, but here it is. I asked that it be put on everybody's desk. That is a rule in the Senate. You can require that because I think just looking at this you see how not to legislate. I think Senator MCCAIN has made that point eloquently.

I am going to speak for about 5 or 6 minutes now. I am going to speak more later.

I thank my colleagues who found that "Big Brother is watching you" language in this massive bill. It is a horrific thought that some person working for the Government can identify a taxpayer and go after him or her, or go after a business without penalty. This is unheard of. If this is a new America, then let me say we have a lot

of work to do around here, and things are going to be slowed down because as much as everyone wants to get home and get with their families, not the least of which is the folks on the floor right now, we may have to sacrifice a little bit if this is the kind of legislation that comes before us in this huge packet.

I am going to take just a few minutes to run through another piece of legislation that was thrown in here without any vote in the Senate, without any hearing in the Senate, without any discussion in the Senate, and that is the so-called Weldon amendment which has very many adverse consequences for millions and millions of women of reproductive age in our country.

The Weldon amendment is a sham conscience clause. It takes a good conscience clause that was put in place so that doctors who have a moral or religious objection to performing abortion do not have to do that, but what this does is says anyone who wants can claim a conscience clause without giving any reason, and expands it to HMOs and insurance companies. Imagine giving an HMO a conscience clause. Since when do HMOs have a conscience? I haven't met one that did so far.

Now, any business entity can decide to tell its doctors who work for it that they cannot give women information about their constitutional right to choose, even in the cases of rape, incest, and life of the mother. In this bill, millions of American women are now at risk, if they are the victim of incest or rape or their life is at stake, they will be denied services and referrals. It is extraordinary to me.

Women will be left abandoned in emergency by overriding the Federal Medicaid law. It abandons women in emergency rooms who have life-threatening pregnancies. It overrides title X requiring referral to appropriate clinicians or clinics. It overrides State laws.

Now you have from my colleagues who run this place, the Republicans, who always say they don't like Big Brother—first, you have them going after your tax return, and now you have them overriding State laws that respect a woman who may be in deep trouble because of incest, or rape, or her life may be threatened.

Can you imagine that? When the American people learn about this—that a woman could stagger in, having been raped by a relative, and she does not have to be told her constitutional rights. Let me tell you, that treats women worse than criminals.

Let us see what we do about criminals. We make sure criminal suspects have to be told their constitutional rights. These folks could be suspected of the most heinous crimes. We have to tell them they have a right to remain silent; anything they say could be used against them in a court of law; they have a right to an attorney before they can be questioned; if they can't afford an attorney, one will be appointed. And

then they are asked, Do you understand these rights?

A woman who may be quite poor, who may not know all of her constitutional rights, up to now has been protected because all the laws we have on the books say she needs to be told what her rights are. Look what we do here to women. Women don't have their constitutional rights explained to them. Under *Roe v. Wade*, a woman has a right in the first 3 months of her pregnancy to be told that the decision is hers, without government interference. After that, she has to be told that her health and life must always be protected throughout her pregnancy. These are the constitutional rights of women.

Yet with this Weldon language which was put into this bill, without a Senate hearing, without Senate debate, without a Senate vote, a woman will be treated worse than suspected criminals.

Mr. LAUTENBERG. Mr. President, will the Senator yield for a question?

Mrs. BOXER. I am happy to.

Mr. LAUTENBERG. In our State of New Jersey, public hospitals are not allowed to deny abortion services to a woman. What effect will this new Federal law have on those women's rights accorded to them under State constitutions?

Mrs. BOXER. The State law will be overridden, my friend. And your State—and I know you and Senator CORZINE are here to fight for your State. You fight for your State every single day. Right now, in this package, without one hearing, your State, if this bill passes, is going to be told from now on they cannot in any way have protections for women in the law if that State takes Federal funds. Of course, they all take Medicaid funds. They will not be able to protect women. Not only won't they be able to protect women in the sense that the woman can have a legal procedure, but the woman won't even be able to get a referral.

Mr. LAUTENBERG. Can a doctor who works at a hospital that doesn't provide abortion services be prevented from providing a patient with a simple direction to say we don't do it, I won't do it, but there are places you can go and you ought to check the directory, or check Web sites and see if you can find a place to get this done?

Mrs. BOXER. Yes. There is a gag rule on doctors. The way it would work would be this: If an organization, an HMO, or a hospital, or an insurance company decides it no longer wants to either provide abortion services or even refer a woman to abortion services, they can say to the doctor who works for them, if you want to work here, forget about it. You cannot refer a woman for an abortion. You can't tell her about her constitutional rights. It is a gag rule that will now be permitted on the doctors of this country to the detriment of the patient.

I will go over this quickly.

Under current law, doctors can choose a conscience objection to pro-

vide abortion services. We all support that. If a doctor personally declares a conscience objection problem, he or she does not have to perform an abortion. However, if a doctor doesn't have a conscience objection, under the Weldon amendment, HMOs and insurance companies who no longer wish to provide women with information on their constitutional rights can prohibit doctors from performing them and referring women; they will lose their job.

Mr. CORZINE. Mr. President, if the Senator will yield, it is my understanding this provision now being described not only deals with conscience issues but also deals with what potentially HMOs or insurance companies can choose to not inform, not because of an issue of morality or religious beliefs, but because they just flat out believe it is not in their best business interests to do that. So we are changing the whole generic and fundamental reason on how we are addressing this issue.

Mrs. BOXER. Yes. That is why I call it a sham conscience clause. It took a conscience clause we passed in 1997 that was very fair, because none of us, pro-choice or not, wanted to say to a doctor you must perform a procedure that you have a religious objection to, and now we have taken that and thrown it out. We say for whatever reason or for no reason, not only a doctor but an HMO, an insurance company, can decide they don't want to offer the service regardless of State law, regardless of local law, and regardless of Federal law.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mrs. BOXER. Mr. President, I ask unanimous consent for 4 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, to put this in the context of this 3,500-page bill that we are legislating outside of the Constitution, of the formal processes of hearings, not unlike the abomination of the IRS where we are creating policies that are changing both State law and privacy issues, both in the case of a woman's right to have access to protecting her health, and dealing with things like the Federal privacy laws with regard to the IRS—what we are doing with these 3,500 pages is the American people are getting legislation tucked into bills without any kind of debate or transparency.

Mrs. BOXER. Absolutely. What we have going on here is this enormous spending bill, and buried in it is legislation that was tacked on, in many cases never discussed, such as this one Senator CONRAD discovered, where a committee staff can look at Senator GRASSLEY's tax returns or my tax return, or Senator CORZINE's income tax returns, or anybody's tax return, and give it to the press. They could choose someone who is a constituent of ours. They could choose someone and find out what charities they are contributing to.

This is the big government watching us, and the Weldon amendment is tucked in here without any vote by this Senate, either in committee or on the floor. I will tell you right now, talk about big government watching you. This is big government overriding State laws in many States. It is big government that is abandoning women in the emergency rooms who have life-threatening pregnancies, who walk into emergency rooms, and under a different law that protects this woman, she has to be stabilized. No more; not with the Weldon amendment.

I wanted to say to my colleagues that I was willing to stand on my feet as long as it takes because of the outrage I feel for the women in this country because of the way they are treated in this bill. But I have been able to work with Senator FRIST, Senator REID, and Senator DASCHLE, and it looks as though we will be able to reach an agreement to have a vote on my bill to repeal this Weldon amendment within the next couple of months. At that time, we will shed light on it. I will have far more to say about it. I wanted to tell my friends here—and I thank Senator FEINSTEIN, Senator LAUTENBERG, and Senator CORZINE, who are on the floor—how much I appreciate your leadership on this.

This is an outrage.

Mr. LAUTENBERG. If I may ask the Senator from California, the Senator is saying she has a commitment. Will that be expressed?

Mrs. BOXER. I will not allow a vote until we have a colloquy read on the floor between myself, Senator REID, and Senator FRIST which promises we will be able to have an up-or-down vote on the Weldon amendment sometime around April, sometime before that, where we can debate this on both sides, where we can share our views on it. Then I will feel in my heart we have done the right thing by the women in America, at least protecting them by letting the light shine on this piece of legislation, which is a shame for the women of this country, overriding State law, overriding laws that protect a woman who might walk into an emergency room, practically at death's door, and no longer would receive treatment.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I speak in strong opposition to a very troubling provision in this bill that will potentially take away American taxpayers' right to privacy regarding their personal income tax return.

The section I refer to is Section 222 of the bill. This section will allow any agent designated by the chairman of the Appropriations Committee access to tax returns and tax return information.

Section 222 provides this sweeping new authority while at the same time it throws aside years of detailed strict statutory protections for taxpayers

that also ensure the privacy of taxpayer information.

Given that the language in this section can be interpreted to eliminate all restrictions on access to taxpayer information and publication of taxpayer information, there is nothing to prohibit the Appropriations Committee from obtaining taxpayer information, information about a corporation, information about an individual and releasing it to the press without fear of penalty.

There is no reason that the Appropriations Committee cannot obtain taxpayer information, your 1040, and just posting it on the Web.

This poorly drafted and even more poorly conceived legislation will bring us back to the doorstep of the days of Nixon, Truman and similar dark periods in our tax history when tax return information was used as a club against political enemies.

My colleagues may find these concerns over the top but I can assure you that when it comes to protection of taxpayer information the history has been a very troubling one and it is only through constant vigilance that we have been able to give Americans confidence that their tax return information will be protected and private.

I find it especially troubling that this language which will harm the volunteer tax system and make the work of the IRS harder comes in an appropriations bill that fails to even provide the full funding requested for the IRS by President Bush.

What is more important, providing more money to the IRS to combat tax shelters, or allowing Appropriations staffers the right to dance through private citizens' tax returns at will? This is an outrage.

Just so my colleagues understand the claim for this language is that it is to allow the appropriations committee with access to IRS facilities for oversight purposes but not the ability to examine individual tax returns, data or information.

This is the statement that was made in colloquy between the chairman of the Ways and Means Committee and the Chairman of the Appropriations Committee in the other body.

The statement between the two members further states that it is the intent of the Appropriations Committees that all access to taxpayer information remains governed by the disclosure and privacy rules of Section 6103 of the Internal Revenue Code.

For my colleagues information, Section 6103 of the Internal Revenue Code generally governs and protects taxpayer information.

What is particularly frustrating is that Section 6103 already provides the Appropriations Committee a means to have access to taxpayer information—within the protections and limitations provided by law to protect taxpayer privacy.

The Appropriations Committee can seek permission for access to taxpayer

information from the chairman of the Ways and Means Committee or myself, in the Senate, the chairman of the Finance Committee. I have received no request for access to taxpayer information from the Appropriations Committee during my time as chairman.

However, I would say that my colleagues know my reputation for oversight and encouraging oversight and I have been very open minded about granting such requests. In addition, any committee can appeal for such authority to the House or Senate for authority—that also has never taken place by the Appropriations Committee to my knowledge. Again, if that authority is granted the protections provided under Section 6103 are still in place.

This provision in the omnibus bill reflects a mindset that Members or, more likely, their staff—don't want to be bothered with such longstanding successful mechanisms to provide access for legitimate congressional oversight and have instead opted for the "easy way out."

And let me be clear, the "easy way out" contained in this bill will jeopardize taxpayer privacy and taxpayer information.

Let me make a final point. This section places the Commissioner of the IRS in the position of possibly forcing him to violate the law under Section 6103. The Commissioner of the IRS is still covered by Section 6103 and the penalties for improper disclosure.

It is my early review of this language that this Section 222 will put the Commissioner in the position of an improper release of tax information in violation of 6103. In such a case it is my view that the Commissioner should not release any tax information under this Section 222.

They say haste makes waste. In this case, with Section 222, haste has made a hash of years of efforts to protect taxpayer information and ensuring that taxpayer information is kept private. It is disgraceful that all this is being done because some Members of the Congress can't be bothered with following the simple rules in place to protect taxpayer information. Now, I have been satisfied since this has come to our attention that this goes much further than what the chairman of the Appropriations Committee has desired, or even more so, that he was not aware of the sweep of this legislation and that it will be corrected shortly in other action taken by this body under the leadership of the Senate Appropriations Committee—and presumably, I am also told, with the adherence of the chairman of the House Appropriations Committee. So this may no longer be an issue.

Mr. STEVENS. Will the Senator yield?

Mr. GRASSLEY. I yield.

Mr. STEVENS. I would like to tell the chairman of the Finance Committee as chairman of the Appropriations Committee, I checked with Chairman YOUNG, BILL YOUNG of the House

Appropriations Committee. Neither of us was aware this had been inserted in the bill. It was inserted at the request of one staff to another, reliance on the statement made by one that the front office had been briefed and is fine with this.

That was not right. No Member had ever seen it. It came out during the readout. I am pleased that after it was presented to the body, it was found. It does not represent the policy of the Appropriations Committee. None of us have even ever discussed in a meeting either on this side or the House of Representatives any further access to taxpayer information. It came strictly from a staff request to another staffer.

It is absolutely a mistake. I apologize to the Senate. I am sorry that both the Senator from Iowa and his colleague, Chairman THOMAS in the House, properly were exercised over it. It is a mistake. It will be deleted. We have made an agreement it will be totally deleted from this bill.

Mr. MCCAIN. Will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Yes.

Mr. MCCAIN. Would this not be, the explanation just provided by the chairman of the Appropriations Committee, incredibly disturbing, that we would have a bill before us, that we would have a few hours of debate, and if it had not been for the alert staff, one of the staffers over here, this would have been passed into law?

This would have been passed into law. Now we find out how it happened. One staffer had an agreement with another staffer, and it was placed into a multithousand-page document that none of us had ever seen or read.

Doesn't the Senator from Iowa find this incredibly disturbing, that there will be all kinds of pressure we vote as soon as possible on this bill because we all want to get out of here, that it is just discovered, but it was done by two staffers?

Has this system broken down completely here in the U.S. Senate?

Mr. GRASSLEY. To the Senator from Arizona, I cannot disagree with what he says. But we do have a bill before us. And the fact is, the chairman of the Senate Appropriations Committee has assured me—and he is a man of his word—that he is going to take action to get this out of here. That does not detract anything from what the Senator from Arizona said about the bill, but I am satisfied as far as this egregious provision being taken care of.

Mr. STEVENS. Will the Senator yield further?

Mr. GRASSLEY. Yes, I do. But I want to say thank you.

Mr. STEVENS. The Senator from Arizona is absolutely warranted in his comments. As I said, I apologize to the Senate. We thought we had these bills read through twice. Both sides read them through twice by people who are involved in them.

I have to tell the Senator from Arizona, I do not sit there for 10 hours as

that is being read. I rely on the people who have been with us now for years and years to tell us that it has been checked properly, that there is nothing in the bill that has not been approved by the bodies respectively and in conference.

But this error happened. I do apologize to the Senate. It is unfortunate. And it is more than a mistake; it is a terrible disaster, and we will have to examine our whole procedures to see if there is any way we can prevent it in the future. But it has happened now, and we do apologize.

Congressman YOUNG is as disturbed about it as I am, and his statement was: "Take it out now." And that is what we are going to do.

Mr. GRASSLEY. I think the Senate should be assured.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I was present in the caucus when the Senator from North Dakota raised this issue and read the language, and I think I have listened to all of the commentary. I very much respect the chairman of the Appropriations Committee. I have served on that committee for 10 years now.

I have a very hard time accepting that this is just an inadvertent staff submission, and I wanted to say why. Because this section 222, if you read it in its entirety, is really an egregious abuse of power. If you go down to line 17, it says: "allow agents." We are not talking—this is not even staff. This is anyone the chairman of the Appropriations Committee would designate, in written form, would have "access [to all] Internal Revenue Service facilities and any tax returns or return information" such as legal information, cases brought.

I cannot believe that some staffer, for some technical reason, wanted to insert this in the bill. I think this is an egregious overreach of power. I think we ought to do the right thing by it, and the right thing, for me, is to vote down this bill, call the House back, have them reconference the bill, and do it the right way. I do not think this language should be active for 1 minute, let alone 1 day. It is just a terrible, egregious abuse of power.

I do not tend to be suspicious. But I see the Senator from Idaho there, and I see the new chairman of the Judiciary Committee here. Does anyone believe, really, that some staffer, without any permission, thought up a scheme by which a chairman's "agent" could have access to every IRS facility anywhere in this Nation, and every single IRS filing of every citizen of this Nation?

I mean, you know, we were not born yesterday. We did not come down with the first snow. I think that is asking for an impossibility. How can we believe that? I think to just shuffle this off—

Mr. LAUTENBERG. Will the Senator from California yield for a quick question?

Mrs. FEINSTEIN. Yes, I will.

Mr. LAUTENBERG. Could you see that this information might be used in a political campaign?

Mrs. FEINSTEIN. Absolutely. Absolutely. I can even see it being used to go after some district attorney in Texas.

I find this an egregious abuse of power. I think we ought to spend some time on it. We ought to talk about what it means. I do not think any Member of this body ought to accept the fact. And if some staff does have the power to simply put something in that is so widespread, have the House of Representatives already pass it—and a bright staffer of Senator CONRAD's found this. What if we had passed this bill?

Senator MCCAIN is absolutely right. This place is broken. And it starts by having one party left out of conference, which has become more and more an accepted trait. That is how this place is broken. You are going to have one party where one person can insert things in the dead of night, in huge bills, which come to this Chamber. It has already passed 345 Members of the House of Representatives.

Mr. HARKIN. Will the Senator yield for a brief question?

Mrs. FEINSTEIN. I am happy to yield.

Mr. HARKIN. I thank the Senator. It has been floating around here that this is somehow a staffer who put this in. I do not know the answer to that question. But certainly someone is responsible and certainly it should not take an investigation lasting a year to find out who. Someone was responsible for this.

I ask the Senator from California, does the Senator feel we ought to know who the person responsible is, and certainly anyone who would exceed his or her authority as a staff person to put in that kind of language, I ask the Senator, does the Senator think that person ought to continue employment in either the U.S. House or the U.S. Senate?

Mrs. FEINSTEIN. I think there certainly ought to be an investigation. I cannot conceive of a staffer doing this without authorization. I cannot conceive of a staffer—if this is so staff can go and look at tax loopholes, in the first place, the Appropriations Committee does not need this. The Finance Committee can do that. Why does the Appropriations Committee need this authority? It does not make any sense.

Not only that, if you are going to copy the legislation that relates to the chairman of the Finance Committee, there is a sanction there, a very heavy sanction for misuse of that information.

Mr. HARKIN. Civil and criminal.

Mrs. FEINSTEIN. If you are going to copy it, why not copy that part of it? This is not a copy job. This is somebody's innovative thinking of how they

could get their minions access to the tax returns of individuals who might be political opponents or who might come up against them in some way or for general resource information to use against an individual, against a company, against a member of the press, at any given time.

Everything we have tried to do, with Social Security numbers, with privacy, is to protect individuals' rights to their own privacy. Every stricture of the IRS is to protect an individual's right to privacy.

Mr. CONRAD. Will the Senator yield on that point?

Mrs. FEINSTEIN. Let me just finish. I am just getting wound up. Let me just finish this windup.

Here, in the dead of night—this is not poorly thought out. This is very carefully thought out. Whoever did this knew exactly what they were doing, and they got it through one House.

Please, don't shuffle this under our desks with a resolution. This bill should be defeated. It should go back. The House of Representatives, which passed it, should at least have to come back to Washington and correct their error. This is the way I feel. I think the American people would be just appalled if they knew this was in the bill.

Mr. CONRAD. Will the Senator yield?

Mrs. FEINSTEIN. I will yield, certainly.

Mr. CONRAD. It was represented on the floor that there was a colloquy on the House side, and in that colloquy they suggested there was no intent for this language to permit access to individual tax returns.

In that colloquy, they suggested, there was no intent. Now, the Senator has read this language. Do you believe the representation that has been made on the House floor that this didn't intend to access individual tax returns?

Mrs. FEINSTEIN. Absolutely not, because twice on line 14 and lines 19 and 20, it reinforces that it is a tax return or return information. It broadens it from tax return.

Mr. CONRAD. I might say to the Senator, if you go to lines 18 and 19, that says "... allow agents designated by such Chairman access to Internal Revenue Service facilities and any tax returns or return information contained therein."

Mrs. FEINSTEIN. It gives them free access to every IRS facility anywhere in America, to go and rummage through and do whatever dirty work they want to do.

Mr. CONRAD. I will ask a second question. On the House floor, they made the representation that this was intended to preserve the protections for individuals' rights to privacy. Now, I ask the Senator from California, is there anything in here that has a protection for taxpayers of their private return information?

Mrs. FEINSTEIN. I worked on privacy legislation, and this absolutely does not have any protection for an individual.

Mr. CONRAD. In fact, it completely sweeps aside all of the protections that are in law because what it says is:

Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the Chairman of the House or Senate Committee on Appropriations, the Committee of the Internal Revenue Service shall allow agents designated by such Chairman access to Internal Revenue Service facilities and any tax returns or return information contained therein.

There is no protection; it is out the window. There is no criminal penalty, no civil penalty. They could call up the return of the Senator from Arizona, if they didn't like the speech he gave on the floor of the Senate; they could get that return and they could release it to the press and have absolutely no penalty.

Mr. MCCAIN. I think I would be the first.

Mrs. FEINSTEIN. Mr. President, if I may make a comment—and then I will defer to a question by the Senator from Idaho. I think this is so Machiavellian—to realize this power is being given to just one Member of the House and one Member of the Senate, and it is a power that I think is broader than that which now exists with sanctions for the Chairman of the Finance Committee. It is not just a staffer, it is an agent that can go. You can hire an investigator. You can have your campaign chairman designated to go in writing. That is the broad fashion in which this phrase or this section is written. It is a very frightening thing.

As I say, I don't often get exercised or upset about things, but the more I read, the more I saw that it was very carefully put together. It is extraordinarily dangerous and a real abuse of power.

I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, I share the Senator's outrage. I agree that the Appropriations Committee chairman and ranking member and/or their staffs or designees do not need this authority. You heard the Finance Committee chair speak, and the ranking member has spoken; they have this authority. But in them gaining this authority, there are very real sanctions against any disclosure.

I know this is an opportunity to make a substantial amount of hypotheticals. Agents are also our staffs. That is what is intended within the law, and that is what is in the law today as it relates to the Finance Committee. I agree with the Senator; this ought to come out. You heard the chairman of the Appropriations Committee say it will come out. It is now not law, nor will it become law. I think that is what is most important.

Is the system broken? Yes. This represents a broken system. What is not broken about it are the keen eyes of all of us and our staffs. The ranking member of the Budget Committee and his staff have found this, so the system is not broken; it just got discovered. It is not in the dark of night; it is a dark

early evening. It is 6 o'clock and we are doing the business of the country.

The Senator from California is absolutely right in what she says. I am not going to play hypothetical. That is the politics I will not enter into. But I agree with her and I suggest that we can talk a great deal about this section, but it will never become law because you and I and the Senator from North Dakota, and everybody else on this floor, by a vote of probably 100-0, will not allow it to happen. I thank the Senator for his diligence.

Mrs. FEINSTEIN. I appreciate the comments of the Senator.

Mr. President, I will wrap this up. I commend my friend and colleague, the junior Senator from California, Senator BOXER, for her indefatigable effort and perseverance on the Weldon amendment. I want to say how strongly I agree with her. I will submit for the RECORD a letter I circulated, signed by Senators BOXER, SNOWE, CLINTON, LINCOLN, MIKULSKI, STABENOW, MURRAY, CANTWELL and COLLINS. I think if I could probably sum it up for everybody, this is just one more step in removing a woman's right to choose. It is a terrible step because it also subjects a woman without resources to a situation where she cannot find help, particularly in a rural area.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, November 19, 2004.

Hon. TED STEVENS,

Chairman, Senate Committee on Appropriations, Washington, DC.

DEAR SENATOR STEVENS: We are writing to oppose a provision called the federal refusal clause from being included in the FY 2005 Omnibus Appropriations bill. This provision was included by Representative Dave Weldon in the FY 2005 House Labor-HHS-Education Appropriations bill and it would allow a broad range of health-care companies to refuse to comply with federal, state, and local laws and regulations pertaining to abortion services.

Should this provision become law, federal, state, or local government may no longer require any institutional or individual health-care provider to provide, pay for, or refer for abortion services. This will mean that medical providers in hospitals and clinics across the country will likely be victims of demonstrations and intimidations as this provision allows that they be forbidden from providing abortion care to women who need it, and also to deny women referrals to another provider. It will interfere with the authority of Attorneys General to reject, approve or impose terms on the sale or transfer of assets by nonprofit health entities as under current law. For example, an Attorney General could no longer reject a merger proposal on the grounds that the result would be diminished community access to full reproductive health services.

This provision has never been considered in the Senate. There have been no hearings held and no debate about this provision. Further, this provision puts all states' Labor-HHS-Education funding at risk and will require them to change existing laws.

The federal refusal clause is harmful to women and denies women access to reproductive health services. We ask that you oppose

its inclusion in the FY 2005 Omnibus Appropriations bill.

Sincerely, Thank you for your consideration.

Dianne Feinstein, Barbara Boxer, Olympia Snowe, Hillary Rodham Clinton, Blanche L. Lincoln, Barbara A. Mikulski, Debbie Stabenow, Patty Murray, Maria Cantwell, Susan Collins.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I just ran up here. I thought I heard the Senator from California say the chairman had sought this power?

Ms. FEINSTEIN. No, I did not say that.

Mr. STEVENS. I hoped that was not the case. In any event, the Senator from California did say it was a one-sided review, with the Republicans reviewing this. The staff reads out our bills—joint staff, House and Senate, Republican and Democrat. I don't want to embarrass anybody here tonight. I am sure every Senator and Congressman will talk to their staff about this mistake. I assure the Senate that there were members in the minority from the Senate and from the House and members from the majority from the Senate and House that read this bill through twice. It wasn't just the majority; it was the minority and the majority staff.

This is a mistake. It is clearly a mistake. It is an unfortunate mistake. I have talked to the chairman of the House committee. He was appalled, as I was, when we found it was in there. To my knowledge, no Member of the House and Senate was asked about this staff request. A representation was made that the front office had cleared it. Actually, we have to have a signoff from the minority as well as the majority staff for their section of these bills. We have that signoff.

If the Senator from California wishes, I will tell her the members of the staff on the Democratic side who reviewed this section and signed off on it. I don't want the RECORD to show it was a partisan review. We do not have partisan reviews of our bills. As a matter of fact, there is no committee that works on a bipartisan basis more than the Appropriations Committee.

Again, I apologize to the Senate. Members of my staff are going to answer to me tomorrow. I want the Senate to know it was a bipartisan staff from the House and the Senate that made this mistake, a terrible mistake. I question any staff member who would ever approve this language without referring to a Member of the Congress to whom he or she is responsible.

I hope the Senator from California understands it is not something we sought, not something we wanted. Both the chairman of the House committee and I sought to delete it the minute we found it. It was too late. The House had already passed it.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I will take a few minutes to discuss a provi-

sion in the bill about which I think there was strong bipartisan agreement, because it will lift a significant burden off of minority contractors around the country who wish to do business with the Government.

Now, as Senators know, the program under which you get certified as a minority contractor in the Federal Government is called the 8(a) Program. State and local governments have similar certifications for contracting as a minority contractor with those governments. This presents a serious problem for minority small businesses seeking to do business and to take advantage of goals or set-aside programs because they are, after all, small businesses. They have to get recertified today, having gotten recertified under the Federal Government, under State government, and recertified under local government. It is a time-consuming and expensive process.

The provisions in the bill which reauthorize several of the Small Business Administration programs also contain a provision about which we had unanimity on both sides of the aisle which provides that once a business is certified as an 8(a) contract on the Federal level, it does not have to go through recertification on the State and local levels in order to do business in programs which are federally funded.

This is going to save minority small businesspeople many thousands of dollars and, in many cases, make it possible for them to participate where otherwise they would not be able to, and enlarge their opportunities to do business with the Government.

It is a piece of legislation that I have worked on throughout this Congress, and I am very pleased and grateful to the chairman and ranking member, as well as the chairmen and ranking members of the Small Business Committee in the House and Senate for agreeing to it.

I want to establish for the purpose of legislative history that the purpose of it, again, is to make clear that once a minority small business is certified as an 8(a) contractor on the Federal level, they are automatically certified as a minority contractor in State and local programs which receive Federal funds.

I ask unanimous consent to print in the RECORD letters of support from the National Black Chamber of Commerce, the National Hispanic Chamber of Commerce, the Hispanic Chamber of Commerce of Greater Kansas City, the Minority Business Council of St. Louis, and the Hispanic Chamber of Commerce of Metropolitan St. Louis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From: Harry Alford,
Sent: Thursday, Aug. 7, 2003,
To: Hall, Heath, (TALENT)
Subject: Section 8(a) Language.

HEATH: The National Black Chamber of Commerce is in strong support of your language for "Section 1. PARTICIPATION IN FEDERALLY FUNDED PROJECTS".

We surveyed 7200 8(a) companies and received responses from 1227 which is a 17% response rate. The first question was: Would you approve of official 8a certification being accepted at local government entities such as city, county, state and even private corporations who are federal contractors? The response was positive 1183 versus 44 which is a Yes vote by 96.4%.

The second question was: Do you find the current system where you must get certified at various places redundant, time consuming and costly? The response was positive 1165 versus 62 which is a Yes vote by 95%.

Based on the response of the survey and on behalf of over 1 million Black owned businesses in the nation, we support Sen. Talent's effort on this matter. This will truly be helpful, economical and fair.

HARRY C. ALFORD,
President/CEO, National Black Chamber of
Commerce, Washington, DC.

UNITED STATES HISPANIC CHAMBER
OF COMMERCE,
Washington, DC, July 31, 2003.

Hon. OLYMPIA SNOWE,
Chair, Senate Small Business Committee, House
of Representatives, Washington, DC

DEAR SENATOR SNOWE:

On behalf of the 1.2 million Hispanic-owned businesses represented by the United States Hispanic Chamber of Commerce (USHCC), I wish to express support for the Section 8a Certification amendment to the House Small Business Act Reauthorization legislation proposed by Sen. James M. Talent (R-MO). The USHCC supports this critical amendment because we believe it will streamline the 8a certification process for many Hispanic-owned businesses, greatly enhance their efficiency, remove barriers to certification and increase their access to federally funded projects.

The majority of Hispanic-owned businesses we represent are small businesses that are eligible for 8a certification. Currently, small businesses are required to obtain multiple certifications—at the federal, state and/or local levels. This can be costly and time-consuming. This is particularly burdensome for our members because most Hispanic-owned businesses are small businesses with fewer than 25 people, limited budgets and limited time. For many Hispanic businesses, this requirement has also proven to be a barrier to certification. The amended language would eliminate the need to obtain state and/or local government certification if a small business has already obtained federal 8a certification. We believe our members would benefit greatly from this because it would help focus their efforts, resources and energy where it is needed most—on growing their business, rather than on paperwork and procedures.

Not only would this amendment alleviate regulatory burdens, and ensure that more Hispanic businesses enter the certification process, but we believe that it will also help increase business for Hispanic firms. Currently, federally certified 8a small businesses must be certified by their particular state and sometimes by the local government to have access to projects that are funded by the federal government. This amendment would provide federally certified 8a small businesses with access to all state and local projects entirely or partly funded by the federal government.

As you know, Hispanic-owned businesses comprise a vital part of our nation's economy. The more than 1.2 million Hispanic-owned firms employ 1.3 million people and generate \$200 billion in annual gross receipts. With Hispanics now officially the largest minority in the country with a population of 38 million, we must ensure that Hispanic businesses have every door open to them so they

can continue to be powerful contributors of the U.S. economy.

The USHCC joins the many other trade and professional associations in supporting the Section 8a Certification Amendment. Thank you for your tireless efforts in confronting this issue.

Sincerely,

GEORGE HERRERA,
President & CEO.

HISPANIC CHAMBER OF COMMERCE OF
GREATER KANSAS CITY
Kansas City, MO, Sept. 5, 2003.

Senator JAMES M. TALENT,
*Russell Senate Office Building,
Washington, D.C.*

DEAR SENATOR TALENT: We are pleased to inform you that the Board of Directors of the Hispanic Chamber of Commerce of Greater Kansas City is unanimously in support of the Section 8(a) Certification Amendment of the Small Business Act (15 U.S.C. 637(a)) for the participation in federally funded projects so that a business that is 8(a) certified shall not be required to be certified by any State, or political subdivision thereof, in order to participate in any project that is funded, in whole or in part, by the Federal Government.

Eliminating the multiple certification process and providing more access to all State and local projects funded in whole or in part by the Federal Government will certainly decrease business costs and increase the system efficiency.

Thank you for your continuous support to the business communication and in particular the small business community, which is the backbone of the national economy.

Sincerely,

CICI ROJAS,
*President, Hispanic
Chamber of Commerce.*

CARLOS ORTA,
*Legislative Chair, Hispanic
Chamber of Commerce.*

MINORITY BUSINESS COUNCIL,
St. Louis, MO, Sept. 5, 2003.

Hon. JAMES M. TALENT,
*Russell Senate Office Building, Washington,
DC.*

DEAR SENATOR TALENT: On behalf of the 300 members and their 8800 employees, the St. Louis Minority Business Council wishes to express support for your proposed Section 8(a) amendment to the Small Business Act.

This critical amendment will remove one of the most significant barriers to our members gaining access to federally funded projects—multiple certifications. The elimination of the multiple certification process will provide our members with greater access to all State and local projects funded in whole or in part by Federal funds. In addition, this will greatly decrease business costs and improve the Section 8(a) program.

Thank you for your continued leadership and support of minority small businesses in the St. Louis area. We look forward to working with you in securing the passage of this very important amendment.

Sincerely,

JAMES B. WEBB.

HISPANIC CHAMBER OF COMMERCE
OF METROPOLITAN ST. LOUIS,
St. Louis, MO, Aug. 8, 2003.

Senator JAMES M. TALENT,
*Russell Senate Office Building, Washington,
DC.*

DEAR SENATOR TALENT: We are pleased to inform you that the board of directors of the Hispanic Chamber of Commerce of Metropolitan St. Louis is unanimously in support

of the Section 8(a) Certification Amendment of the Small Business Act (15 U.S.C. 637(a)) for the participation in federally funded projects so that a business that is 8(a) certified shall not be required to be certified by any State, or political subdivision thereof, in order to participate in any project that is funded, in whole or in part, by the Federal Government.

Eliminating the multiple certification process and providing more access to all State and local projects funded in whole or in part by the Federal Government will certainly decrease business costs and increase the system efficiency.

Thank you for your continuous support to the business community and in particular the small business community, which is the backbone of the national economy.

Sincerely,

RAFAEL NUN MARIN,
President.

Mr. TALENT. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to speak in opposition to this sweeping gag rule with which we have become familiar. It is against women's health. It has just been slipped into the omnibus spending bill. Even though most of this country is pro-choice, the House Republicans have inserted radical anti-choice language into this legislation.

One thing I have learned in my time in politics is that if one of the parties is shameless, the other party cannot afford to be spineless. I am pleased that my colleagues have caught on to what is going on here and are trying to make sure we all understand what is in this huge bill we are looking at. It deserves a thorough examination.

I think the Senator from Maryland indicated that if you recognize some mistakes in this pile of paper, one thing you know is that there are many others that lurk in the voluminous bill before us. So the effect of this Republican provision to allow doctors to be gagged from even discussing abortion with their patients is outrageous.

This morning, I heard our majority leader, Senator FRIST, say that the Senate should focus on "putting the doctor-patient relationship first." But here the Republican majority is inserting language that would block doctors from even talking to their patients about legal medical procedures.

Under current law, if a doctor's religious beliefs prevent him or her from providing abortion procedures, then he or she cannot be forced to perform the procedure or even discuss it. That is called the conscience clause, and I think it makes sense. But what is in this omnibus bill goes way beyond the conscience clause. It is a gag rule that allows a hospital or an HMO to order its doctors not to perform, discuss, or even provide basic information on abortion, and that certainly is not putting the doctor-patient relationship first. That is putting politics first.

Even if a doctor believes that the information on abortion would be critical to saving the life of the mother, this new provision could be used to prohibit

that doctor from providing such life-saving information.

To put it simply, this is an outrageous attack on women's health and women's rights.

In addition, this Republican provision overrides State laws. I asked the Senator from California a question as she was making her remarks: Would this eliminate the possibility that even though in the State of New Jersey, my State, for example, if we allowed under our State constitution the right for a woman to have an abortion, that it could be overridden by Federal law if this becomes law. And the answer is yes—state's would not be able to enforce their own constitutional protections. I guess the Republican Party suddenly wants to preempt State or local law from ensuring a woman's access because it does not suit their agenda.

My State of New Jersey has such a law, but now our law would be overridden by this Federal gag rule, and that is totally unacceptable.

The provision goes so far as to say that any State or local government that attempts to enforce its own laws or policies in the area of abortion could have all of its Federal labor health and education funding canceled—cancel the funding for those essential services.

My only complaint is this is not States rights, it is State bullying.

One year ago, President Bush—how well I remember it, and I am sure most of my colleagues do—signed an anti-choice bill into law. It was an extraordinary event not just because of the terrible bill that he was signing into law, but also it was quite an image that appeared in newspapers across the country.

This is the image. Look at the image again: Smiling faces of all men—all men. Not one woman Republican or Democrat stood with them when the President signed that bill. They are all men, and it is downright frightening. I call this photo a "male-a-garchy." This photo says to women: Your right to make choices about your health and your body is being taken back from you, and these men are doing it, right here, with smiling faces, and the President, with pen in hand, is signing the bill.

This trend is going to continue to be enforced by this bill today. The bill before us takes away the decision-making power from women and doctors, and puts it into the hands of men who lead hospitals, insurance companies, and HMOs. Supporters of this gag rule claim this policy change is necessary to make sure that health care providers are not forced to perform abortions.

I want to make it crystal clear that under current law, no doctor or nurse in this country is required to provide or discuss abortions against their will. Unlike the conscience clause, this gag rule does not protect doctors' rights, it takes doctors' rights away. Doctors have a duty to ensure that patients

have access to accurate information so that they can make the medical decisions that are best for them.

This bill would gag them from providing that information and denies women the right to understand all of their medical options.

Women have the right to access to medical information about all of their options, not just those that the "male-garchy" wants them to hear. So I say to women across this country: Be aware, the right to choose is in dire jeopardy. This bill today is yet another attempt to chip away at the right to reproductive choice.

Look at the size of the bill that we have just received. It is thousands of pages. Hidden within these pages is the attack on a woman's right to choose.

It is wrong to take away people's rights by slipping it into a giant spending bill without any debate, without any discussion, and concealing it in such a way that if we were not lucky and did not catch it, even though it was suggested we are studying all of these bills—believe me, when there is that much paper and it arrives so late, one does not have time to do it, and it is just luck when it is found. To put it bluntly, it is not becoming of a democracy.

I am pleased the Senators from California have secured an ironclad agreement from the majority leader to take up this issue before the end of April of next year. We look forward to that debate. The American people deserve better. Open up the records. Talk about it plainly. Debate it fairly, and then if it comes to a vote, the people in the country will see who voted for and who voted against women's rights.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I speak for 10 minutes now and then when we go to the bill for an additional 20 minutes.

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, beginning this year, during consideration of the fiscal year 2004 Omnibus appropriations bill, I stood on the floor and spoke about how our economic situation, our vital national security concerns, required us to take greater effort in prioritizing our Federal spending and we could no longer afford business as usual. Little has changed since January. Here we are again, nearly 2 full months into fiscal year 2005 and we have before us another appropriations monstrosity. Let me remind my colleagues that because of our inability to get much done under the regular order, this is the third year in a row we have had to pass a mammoth consolidated appropriations bill. In fact, we have been forced to consider huge Omnibus appropriations bills for 6 of the last 8 fiscal years.

This is a remarkable package. This is a remarkable thing. I would argue that

not one Member of the Senate or our loyal staffs is physically capable, even if they wanted to, to read this many-thousand-page document. This system cannot continue.

Another thing that is very dispiriting, it always is considered at the last minute before we go out or the last hour or the last 2 hours. Why? Because the members of the Appropriations Committee know it will not bear scrutiny.

We were able to uncover an egregious action on the part of the committee that has been fully ventilated, but if we were going to go out next Monday night, we would be debating this Omnibus bill next Monday night. If we were going out Christmas Eve, we would be debating Christmas Eve. It is in the appropriators' benefit for us to do it at the last minute.

This many-hundred-page document deserves a lot more than my half-hour and the chairman of the Appropriations Committee's 20 minutes. Why? Why are we going to talk so little about it? I would like to talk for hours about it, but I do not have the courage to hold up the travel plans of all of my colleagues. So I am only going to talk for half an hour about a \$388 billion, 1,632-page document. That is disgraceful. We are not doing what we should do for our constituents. We have an obligation to oversee their tax dollars.

I am going to talk about a number of the provisions. Some are fairly entertaining: The Clemson University, South Carolina Call Me Mister Program. We are going to spend money on the curriculum development on the study of mariachi music. I am going to go over some of them. They are remarkable.

The good old Rock and Roll Hall of Fame is back. We are going to give them some money again. The Rock and Roll Hall of Fame is hurting badly.

It goes on and on and on: beautification projects, libraries. We are back to the old snake management in Guam. That is only \$515,000; \$175,000 for research into tree fruits quality. All of them, of course, have a specific location. We are going to spend \$443,000 to research and develop baby food containing salmon; \$3 million for the Center for Grape Genetics in Geneva, NY; \$2.3 million for an animal waste management research laboratory in Bowling Green, KY; \$100,000 for the Puerto Rican Traveling Theater in the Bronx; \$100,000 for the Cedar Creek Battlefield Foundation. By the way, the Cedar Creek Battlefield Foundation proudly proclaims on their Web site that they receive no Government funding and will continue to operate as an independent organization.

Then there is \$100,000 for the Belle Grove Plantation, an 18th-century grain and livestock farm. Here is a great one, \$1 million for the Norwegian American Foundation to fulfill its charter. What is the charter of the Norwegian American Foundation that they need \$1 million of my taxpayers' money?

It goes on and on. The energy and water, of course, is \$1.796 billion for construction of inland waterway projects; \$12.5 million for the Dallas floodway extension; \$24 million for portions of the Big Sandy and Upper Cumberland River Project. A couple of these projects that caught my eye are because they direct the Corps to continue with the construction of harbor projects in accordance with "the economic justification." In other words, no cost-benefit analysis but economic justification. Then there is \$324.5 million for Cape Girardeau, MO; \$12 million, if it is going to continue, another one of the worst projects ever conceived by Congress, the Yazoo Basin, Yazoo Backwater Pumping Plant in Mississippi, in which the Clarion Ledger, a Mississippi newspaper, had to say in an editorial, "Death of This Boondoggle Long Overdue":

So why does the Yazoo Pump Project survive—very few people would benefit and the plan is so costly . . . running it would be an ongoing destruction of wealth and wildlife. Yet pump proponents were at it again trying to resurrect this Frankenstein monster.

Core support for the International Fertilizer Development Center, \$2.3 million. I had no idea we had an International Fertilizer Development Center, much less that it needed \$2.3 million for core support of it.

I guess \$500,000 for Idaho weed control; \$2 million for Atlantic salmon grants; \$790,000 for the Bering Sea Fisherman's Association. I guess the Bering Sea Fisherman's Association cannot raise their dues enough to sustain themselves. We have to give them \$790,000. We go through this every year. Three million for Wheeling Jesuit University for the National Technology Transfer Center for a coal slurry impoundment pilot project; \$20 million to Project GRAD-USA in Houston, TX, for continued support and expansion of the program focusing on school reform; \$350,000 for the Rock and Roll Hall of Fame Museum in Cleveland for music education programs. Being a fan of rock and roll myself, I guess that is well justified.

The fact is we are looking at a deficit of enormous proportions where Alan Greenspan as recently as the day before yesterday warned us about the impact on our economy. Some of these, such as what is being done on NASA funding, is harmful to the mission and capabilities of NASA itself. According to information compiled from the Congressional Research Service, the total number of earmarks has grown from 4,126 to 14,040 in fiscal year 2004. In terms of dollars of earmarking, it has gone from \$26.6 billion to \$47.9 billion. That is in the space of 10 years.

If you extrapolate that, we are really on a remarkable path. I was shocked when I read a recent report "Is Pork Barrel Spending Ready to Explode? The Anatomy of an Earmark" by Ronald D. Utt, Ph.D., published by the Heritage Foundation, which details a new scheme by lobbyists to sell earmarks.

I ask unanimous consent that article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Published by the Heritage Foundation, Nov. 10, 2004]

IS PORK BARREL SPENDING READY TO EXPLODE? THE ANATOMY OF AN EARMARK

(By Ronald D. Utt, Ph.D.)

A news item appearing this November in a Virginia newspaper reveals the emergence of what may be a lucrative new lobbying strategy that could substantially increase federal pork-barrel spending. In the past, earmark-seeking entities approached earmark-providing lobbyists for assistance in getting a piece of the federal budget. But in this new strategy, lobbyists openly sell such services to unserved institutions and individuals by convincing them that they might be eligible for an earmark, providing that they are willing to pay a four-figure monthly retainer.

The new strategy was recently revealed by way of a prospective earmark for a \$3.5 million community sports complex in Culpeper County, Virginia. The county has just begun construction on the project, which was to be funded with the proceeds of a county bond offering the voters approved a few years ago. But that financial arrangement might change now that a lobbyist paid the county a visit and pointed out that, for a fee, the county could get the federal government to pay for the complex. As reported in the *Free Lance Star*, a county official says that "he had been approached by a representative of Alcalde and Fay, a Northern Virginia lobbying group, who expressed optimism that funds for the \$3.5 million sports complex could be tied to one or more federal appropriation bills." [1]

The article also noted that "The cost of hiring Alcalde and Fay would be \$5,000 per month, with an 18-month recommended contract." While the average American family might consider this a steep price, the prospective arrangement's payoff reveals what a bargain it is for the county. With their fees totaling \$90,000 for a prospective federal grant of \$3.5 million, Alcalde and Fay are, for all intents and purposes, selling federal taxpayer money for just 2.6 cents on the dollar. Anyone who has suspected that Washington places little value on taxpayers' hard-earned dollars now has an idea of just how diminished that value is—somewhat less than the market price for defaulted Argentine debt.

How the Culpeper transaction unfolds bears watching for several reasons. From the perspective of federal fiscal integrity, this new earmark strategy could open the floodgates to me-too projects across the country that would otherwise be funded with local resources. Just thirty miles down the road from Culpeper is the town of Fredericksburg, which is now in the process of committing itself, and its budgetary resources, to a \$6 million recreation complex with indoor and outdoor swimming pools. Now apprised of Culpeper's prospective earmark, could the elected officials in Fredericksburg be faulted for ringing up a lobbyist of their own?

And in the not-too-distant future it is quite likely that the federal budget process will no longer take place in the halls of Congress, as the Constitution requires, but in the dozens of offices of Washington's top lobbyists—largely driven by generous contracts between the firms and their clients.

Another reason this process bears watching is for how it reflects on Congress. The lobbyist is proposing to sell something that is not really his to sell. That he believes he can deliver it tells us that something is ter-

ribly wrong in Congress. It is one thing for members of Congress to make pork-barrel spending promises to their constituents and deliver on them, but it is quite another that earmarks can be bought and sold like bushels of wheat on the open market by private speculators. And apparently, all this wheeling and dealing is taking place without any involvement (at least not yet) by a member of Congress.

As noted earlier, if Article I, Section 9, Clause 7 of the Constitution reserves exclusively to Congress the power of appropriating money from the U.S. Treasury, how is it that these lobbyists have come by the same privilege, and who has allowed it to happen?

That is a good question, and in the event that the County of Culpeper signs a contract with Alcalde and Fay to secure \$3.5 million for the sports complex now being built, the Heritage Foundation, in partnership with fiscally responsible members of Congress, will closely track this process and determine how, and at what point, the writing of appropriations bills was outsourced to the lobbying community on a for-profit basis.

Alcalde and Fay, of course, is not the only firm engaged in the misdirection of federal resources through the pay-to-play process. In a process previously described (See Heritage Backgrounder No. 1527, "Can Congress Be Embarrassed into Ending Wasteful Pork-Barrel Spending?"), the market for earmarks in appropriation bills has been growing rapidly and, given its profitability, will likely continue its robust growth. In recent years, some members of Congress and government officials—notably former OMB head Mitchell Daniels, Sen. John McCain, and Rep. Jeff Flake—have tried to dampen the practice, but they have had little success in cultivating a greater awareness of fiscal hygiene among the vast majority of their colleagues who believe that electoral success grants unlimited access to taxpayers' credit cards. Between 1997 and 2004, appropriations earmarks have increased from under 2,000 to over 10,000, and this year's failed highway reauthorization contained more than 3,000 pork-barrel earmarks, compared to 1,800 in the previous bill and only 10 in the highway bill passed by Congress in 1982.

That Congress once showed budgetary restraint and fiscal continence suggests that the propensity to earmark is not some inherent flaw in American democracy, but rather a willful irresponsibility now embraced by all too many members. Among the many tasks confronting the re-elected President Bush will be to reduce federal spending from its near record levels as a share of GDP and to narrow the deficit, which now hovers at \$413 billion. A good place to find fiscal redemption is in the appropriation bills that will soon come across the President's desk. The first step in the process should be a sharply worded veto threat. It would be a welcome change if that veto threat included excess earmarks as one of many items that would merit a presidential rejection.

Mr. MCCAIN. I quote:

That Congress once showed budgetary restraint and fiscal continence suggests that the propensity to earmark is not some inherent flaw in American democracy, but rather a willful irresponsibility now embraced by too many members.

We now have a deficit of \$413 billion.

A good place to find fiscal redemption is in the appropriations bills that will soon come to the President's desk. The first step in the process should be a sharply worded veto threat. It will be a welcome change if that veto threat included excess earmarks as one of the many items that would merit a presidential rejection.

Here is the stark reality of our fiscal situation. According to the Government Accountability Office, the unfunded Federal financial burden, such as public debt, future Social Security, Medicare, and Medicaid payments, total more than \$40 trillion, or \$140,000 per man, woman, and child.

To put this in perspective, the average mortgage which is often a family's largest liability is \$124,000, and that is often borne by the family breadwinners, not the children, too. But, instead of fixing the problem, and fixing it will not be easy, we only succeeded in making it bigger and more unstable, more complicated and much more expensive.

I point out that it is well known that the President very soon will come over and ask for an additional \$70 billion to fight the war in Iraq. I believe—and I said this a long time ago, and it is true today and it will be true when I say it again a year or two from now—we are going to be in Iraq for a long time. I pray every day that we prevail. I pray every day for the young men and women who are serving and in harm's way. But there is no doubt in my mind that we will have many billions of dollars yet to spend on Iraq and Afghanistan. All of us are aware we now face a growing threat from North Korea and a recent very serious one from Iran.

There is no one I know who is an expert outside the administration who does not believe we are going to have to spend a lot more money on defense, one reason being that our military is too small. We need as many as 80,000 more men and women in the Army. We need 20,000 to 30,000 more men and women in the Marine Corps. It is all going to cost money. But, instead, we are going to spend tens of billions of dollars in wasteful and unnecessary spending and increase this debt on future generations of Americans.

We can't afford to do this. We cannot afford to continue a broken system such as this, where the night we are going out of session we have a 1,630-page bill that none of us have seen or read and in which a particularly onerous provision which, if it hadn't been for the Senator from North Dakota bringing to our attention, would have been an unprecedented invasion of the American family's privacy. But there are other provisions in this bill which no one has seen or read.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent the Senator have additional time, if he desires it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, The Conference Report, once again, contains earmarks of \$10 million for the Alaska Fisheries Marketing Board—is there something wrong with these fish that warrants such an expensive program to convince us to eat them? And now it also has \$1 million for the Wild American Shrimp Initiative. I am hoping

that the appropriators could explain to me why we need \$1 million for this—are American shrimp unruly and lacking initiative? Why does the US taxpayer need to fund this “no shrimp left behind” act?

At the Department of Justice, Section 619: \$100,000 for the Puerto Rican Traveling Theater in Bronx, NY for outreach and programs. This theater has produced 104 plays in both English and Spanish, and is not community based; \$100,000 for The Cedar Creek Battlefield Foundation. It preserves lands where battles were fought, reenacts battles. It proclaims on their website that “the Cedar Creek Battlefield Foundation receives no government funding and will continue to operate as an independent organization.”

Then \$100,000 for the Shenandoah Valley Travel Association. This association presents a comprehensive tourism guide to attractions, lodging, restaurants, shopping and other services.

And \$100,000 for the Belle Grove Plantation. Belle Grove is a preserved 18th-century grain and livestock farm.

And \$1,100,000 for the MountainMade Foundation for outreach and promotion, the education of artists and craftspeople, and to promote small businesses, artisans and their products.

And \$1,000,000 for the Norwegian American Foundation to fulfill its charter. This foundation promotes further cooperation among all Norwegian American organizations.

Mr. President, while I understand that the omnibus before us is a glaring and wasteful sign of the Senate's failure to consider and pass individual appropriation bills, I had hoped that the bill would succeed in hold the line against wasteful and unnecessary pork following a vote to raise the debt limit. My colleagues have become accustomed to my railing against pork-barrel spending, but if there was ever a time when we all needed to rally against it for the good of our country, our economy, and our current commitments and security priorities, it is now.

This bill in no way reflects the fiscal realities of our times. One can go directly to the energy and water appropriations section of this bill to take a quick read of the pork fantasies that federal taxpayers will be plagued by.

Senator FEINGOLD and I sent a letter to leadership last week urging the exclusion of Water Resources Development Act provisions because of the costly and wasteful water projects included as well as the neglect of much-needed Army Corps reform. I am heartened to see that the bill with the full compliment of costly water projects was not included. However, there are billions of dollars earmarked for a host of water projects.

Let's start at the top of the big ticket list—\$1.796 billion is provided construction of inland waterway projects. I was relieved to see that funds are provided for the rehabilitation of specific locks in the Upper Mississippi-Illinois

Waterway, but not for the incredibly wasteful \$2.3 billion locks expansion project.

This project has received attention in papers throughout the country because it is such an extreme example of a very expensive and unnecessary water project that some members are determined to foist on American taxpayers. A New York Times editorial from November 18th discussing the possible riders to be attached to the omnibus bill stated, “but the worst by far is a proposed \$2 billion expansion of the lock system on the upper Mississippi River, a project that the National Academy of Sciences has twice reviewed and twice declared a waste of money.”

After a conscientious economist at the Corps blew the whistle on this project and heads rolled, the National Academy of Sciences undertook a study of the project and then a second one I guess just in case Congress was ignoring the first one— and both conclude that this project cannot be justified by current or projected barge traffic and there are inexpensive and effective alternatives available.

And in spite of this irrefutable, objective information, there have been concerted efforts to get Congress to approve spending \$1.8 billion dollars to satisfy special interests instead of the public interest. It's wrong and its shameful. Speaking of interests, the interests of your own state would also be affected by this project because it will suck up such a significant percentage of the Corps program funding there just won't be enough to go around in years to come.

Next to the mother of all wasteful Corps projects, other earmarks look downright insignificant: \$12.5 million for the Dallas Floodway Extension, \$24 million for portions of the Big Sandy and Upper Cumberland River Project, and a not too surprising number of Alaska projects. A couple of these caught my eye as they direct the Corps to continue with the construction of harbor projects in accordance with “the economic justification” contained in the Engineers report. I've not seen the cost-benefit analysis of these projects but this language ensures that there won't be any question regarding their justification.

The rest of this section of the bill is a litany of multi-million dollar projects earmarked for Missouri, California, Hawaii and other states and I hope that these are all worthy projects. There is \$324.5 million provided for flood damage reduction in Cape Girardeau, Missouri and I don't know where all that money is going but \$12 million of it is going to continue another one of the worst projects ever conceived by Congress. This is the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi which I've spoken against on the Senate floor before. Well, its back.

Again, this is another of those projects that newspapers like to write about in pointing out the folly of con-

gressional spending. Here's what the Clarion Ledger, a Mississippi newspaper had to say in an editorial titled “Death of this Boondoggle Long Overdue”, “So why does the Yazoo Pump Project survive—very few people would benefit and the plan is so costly . . . running it would be an ongoing destruction of wealth and wildlife. Yet pump proponents were at it again trying to resurrect this Frankenstein monster”. The New York Times concurred, “Yazoo Pump ranks among the most indefensible projects undertaken at Congressional behest. It would drain 200,000 acres of valuable wetlands . . . and would benefit nobody except a relatively small number of big growers, who already drink copiously from the public trough”.

I highlight this egregious project among others to make the point that this bill clearly reflects that we are not doing our essential job of expending public funds wisely and responsibly and if not now then when will we ever take this duty seriously?

The report language earmarks up to \$2,000,000 for Water Missions International to develop clean water treatment projects in developing countries; At least \$4,000,000 for the International Fertilizer Development Center; \$1,000,000 directed for support of the United States Telecommunications Training Institute; \$1,000,000 for the International Real Property Foundation; \$3,000,000 for Internews, to promote freedom of the media in Indonesia; \$3,000,000 for the Foundation for Security and Sustainability; and \$2,000,000 for Zanmi Lasante.

Mr. President, the Interior bill language also includes individual location specific earmarks and provisions in this section of the legislation. Of note: a provision stating that, out of amounts for Resource Management maintenance is provided for the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; a provision stating that, notwithstanding any provision of law including NEPA, non-renewable grazing permits authorized by the Jarbidge Field Office, Bureau of Land Management within the past 8 years shall be renewed; \$1.5 million is earmarked for wood products wastewater treatment plant repairs in Canton, NC; \$5.0 million is earmarked, in addition to its normal allocation, to Alaska Region to establish a 3-year timber supply; \$18 million is earmarked to continue a multi-year project coordinated with the private sector for FutureGen in Alaska; \$50 million is made available for a request of proposals for a Clean Coal Power Initiative for competitively awarded research, development, and demonstration projects; \$18 million is made available to carry out naval petroleum and oil shale reserve activities; \$500 million, which was not requested by the President, is included as additional funding for wildland fire suppression funds for fiscal year 2005.

Mr. President, I did not have enough time to count every earmark in division E of the conference report, but it is safe to say that there are well over 1,000 individual location specific earmarks in this section of the legislation. Of note: \$500,000 for Idaho weed control; \$2 million for Atlantic salmon grants administered by the National Fish and Wildlife Federation; \$500,000 for Lahonton cutthroat trout; \$1.8 million for eider and sea otter recovery at the Alaska SeaLife Center; and \$250,000 for concho water snake delisting efforts in Texas.

For the Bureau of Land Management there are 32 location specific earmarks for land acquisition, including \$3.4 million for the Baca National Wildlife Refuge in Colorado and \$2 million for the James Campbell National Wildlife Refuge in Hawaii. These 32 earmarks amount to almost \$23 million in spending.

The National Recreation and Preservation provisions include \$2.5 million for the Chesapeake Bay Gateway and \$750,000 for the Alaska National Parks. The Historic Preservation Fund is loaded with 84 location-specific earmarks totaling \$15 million. There are 78 earmarks in the construction account totaling approximately \$192 million. Some of the more egregious examples of these earmarks include: \$8.7 million for the Crater Lake National Park in Oregon; \$3.0 million for the Blue Ridge Parkway in North Carolina; \$7.4 million for Denali National Park in Alaska; \$10.8 million for Gettysburg National Memorial Park in Pennsylvania; \$10 million for the Lassen Volcanic National Park in California; \$15.5 million for Olympic National Park in Washington; and over \$15 million for Yellowstone National Park.

Mr. President, every year I marvel at how well the residents of Alaska make out in these appropriations bills. This year is no exception. Throughout the division E, earmarks for Alaska abound. Just a sampling of these projects include: \$1.2 million for the Alaska mineral resource assessment program; \$100,000 for the Alaska Geological Materials Center; \$150,000 for the Alaska Whaling Commission; \$900,000 for the Marine Mineral Technology Center; \$98,000 for the Alaska Sea Otter Commission; \$790,000 for the Bering Sea Fisherman's Association; \$346,000 for the Chugach Regional Resources Commission; \$750,000 for the rural Alaska Fire Program; and \$750,000 for the Alaska native aviation program.

Out of the Employment and Training Administration account the bill provides the following amounts for non-competitive grants: \$2,200,000 for the AFL-CIO Appalachian Council, Incorporated; \$1,500,000 for the AFL-CIO Working for America Institute; \$4,000,000 for the Black Clergy of Philadelphia and Vicinity; \$2,600,000 for the National Center on Education and the Economy.

Out of the Departmental Management Salaries and Expenses account

the bill provides: \$7,000,000 for Frances Perkins Building Security Enhancements.

Out of Department of Labor project pilots and demonstrations, the statement of managers suggests the following earmarks: \$100,000 for 413 Hope Mission Ministries, Philadelphia, PA for employment skills training for disadvantaged adults and ex-offenders; \$500,000 for Alaska Department of Labor and Workforce Development, Juneau, AK to fund training for gas pipeline workers; \$200,000 for Central State University, Wilberforce, OH, to implement a world class modular automation training system; \$225,000 for Cook Inlet Tribal Council for the Alaska's People Program in Anchorage, AK; \$50,000 for Fashion Business, Inc., Los Angeles, CA, for workforce development and training; \$500,000 for Mississippi State University, Starkville, MS, Robotics and Automated Systems for Nursery Industry.

Out of DoL Mine Safety and Health Administration, the statement of managers suggests the following earmarks: \$750,000 for infrastructure improvements at the Mine Academy in Buckley, WV; \$3,000,000 for Wheeling Jesuit University for the National Technology Transfer Center for a coal slurry impoundment pilot project.

This conference report includes funding for a number of important public health programs and research activities funded through the Department of Health and Human Services (HHS). However, the appropriators were once again unable to allow the Department to allocate funds through merit based grants and took it upon themselves to select projects which they believe to be worthy of funding. The HHS section of the Joint Explanatory Statement includes 53 pages full of more than 1,400 earmarks, totaling over \$603 million.

Some particularly large examples include: \$10 million for the Medical University of South Carolina Oncology Center in Charleston, South Carolina, for the construction of the Allied Health Technology Tower; \$10 million for the Shepherd University in Shepherdstown, West Virginia, for the construction of a nursing education facility; \$10.25 million for the University of Louisville, in Louisville, Kentucky, for the Baxter III Research Building; \$10 million for the University of South Alabama in Mobile, Alabama; and \$10 million for the West Virginia University for the construction of a Biomedical Science Research Center.

It shouldn't be surprising to any of my colleagues that the section of the Joint Explanatory Statement for the Department of Education is again loaded up with pork barrel projects designated to schools and organizations which the members of the Appropriations Committees, rather than the Department of Education, deemed worthy of federal dollars. In the 43 pages of the statement, devoted exclusively to pork, the appropriators included an estimated 1,147 earmarks, amounting to well over \$392 million.

Among the more egregious examples is: \$20 million to Project GRAD-USA Inc, in Houston, Texas, for continued support and expansion of the program focusing on school reform; \$18 million to provide assistance to low-performing schools in the Commonwealth of Pennsylvania Department of Education; and \$15 million for the Iowa Department of Education to continue the Harkin grant program.

\$350,000 for the Rock and Roll Hall of Fame and Museum in Cleveland, Ohio for music education programs.

I am sure that many Americans would be surprised to learn that there are even state specific earmarks in the Legislative Branch Appropriations. The appropriations bill that is supposed to fund the work of Congress and its related offices is also being used to "bring home the bacon." The bill specifically earmarks \$300,000 in funding from the Library of Congress (LOC) for the University of South Carolina for the preservation of Movietone Newsreels. The Joint Explanatory Statement mandates that the LOC establish a program under its Adventure of the American Mind initiative in Georgia. Clearly both are worthwhile endeavors, but why are the University of South Carolina and the state of Georgia more deserving of these distinctions than any other university or state.

The conference report provides \$1.1 billion more than requested by the President for the federal-highway program. All of the extra funding, plus another \$100 million, is used to \$1.2 billion for 795 earmarked projects. Among the projects deemed worthy of funding are: Access to the Ebenezer Swamp Wetlands Interpretative Center in Alabama (\$225,000); The Girl Scouts Golden Valley Council bridge project in California (\$150,000); Farm crossings in Ventura County, California (\$500,000); and Streetlights and a salt dome for Markham, Illinois (\$300,000).

The conference report prohibits the use of funding to implement or enforce any provision of the new hours of service regulations to operators of utility service vehicles, or to the transportation of property or passengers to or from a motion picture or television production site. I find this particularly ironic given the fact that Congress, as part of the 8-month extension of the highway program passed in September, mandated that the new hours of service regulations remain in place for the next year in spite of the decision of the DC Circuit Court of Appeals striking down the regulations as arbitrary and capricious.

The conference report provides \$1.217 billion for Amtrak, \$317 million above the amount supported by the President without significant reform and restructuring, continues strong oversight by the Department of Transportation, and requires Amtrak to begin paying back its \$100 million loan from the Federal Railroad Administration. While I am

relieved that the appropriators continue to resist Amtrak's pleas for significantly higher funding, I am concerned about that Amtrak will use its appropriation to simply continue operating the same train network, and continue to rack up record operating losses.

I agree completely with the conclusions reached yesterday in a report by the Department of Transportation's Inspector General on Amtrak's 2003 and 2004 financial performance and requirements. The report states that "The bottom line is that the existing system is not sustainable at current funding levels . . ." and that "Amtrak's management must find ways to reduce its need for operating subsidies and set better priorities for capital dollars." As I have said many times, it is time to restructure Amtrak. Amtrak should focus on short-distance corridors where rail service can compete with other modes of transportation, and the long distance trains should be restructured or eliminated. If Amtrak won't follow implement this strategy, then it is the responsibility of Amtrak's Board of Directors, the Secretary of Transportation, and Congress to make it happen."

The conference report also contains a provision that would expand an existing waiver for the state of New Hampshire from the 80,000-pound truck weight limit on the Interstate System. Trucks would be allowed to operate at up to 99,000 pounds on Interstates 89 and 93 (in addition to I-95 which is current law). Bad, Very Bad.

The conferees state that returning the Shuttle fleet to flight should be NASA's highest priority because it's the first step in the Space Exploration Initiative. Just two weeks ago, NASA notified the Commerce Committee that the Shuttle return to flights costs for fiscal year 2005 alone would exceed \$762 million. The Commerce Committee awaits NASA's plan for covering these costs. Whatever the plan, it is only further complicated by the fact that the conference report contains 16 pages of earmarks in the NASA budget, including such things as \$1,000,000 to the Southern Methodist University to develop multifabrication manufacturing technology, \$750,000 for the GeoTREE project at the University of Northern Iowa, and \$3,000,000 for our familiar friend, the ultra-long balloon program at New Mexico State University.

The conferees go on to say that if NASA needs more money just send in a supplemental request. It would be given full and fair consideration by Congress. Maybe we should just send the blank check now and ask NASA to fill it out. This type of behavior represents no accountability and actually encourages NASA to spend without regard to budgetary reality.

The liberation of NASA continues by the conferees' granting NASA unrestrained transfer authority between the "Exploration Capabilities" account and the "Science, Aeronautics, and Ex-

ploration" account. This was requested by NASA and granted by the Appropriators under the guise of the need for flexibility to transition to full cost accounting. These two accounts represent over \$16 billion. In essence we're saying, "NASA, do what you want with the money." The statement of managers goes on to say that the transfer authority can be used for purposes other than addressing full cost accounting, but that NASA should "do so with restraint." I don't understand—the statement of managers earlier specifically said that would have "unrestrained transfer authority." What's the "do so with restraint" all about?

Inserted in the last section of the omnibus, in a miscellaneous section, is a provision which would modify federal pension laws for multiemployer pension plans covering employees working in the State of Alaska.

Title 6 in CJS, Page 170—prevents FCC from implementing February 27, 2004 recommendation of the Federal-State Joint Board on Universal Service that universal service fund (USF) support only be provided to primary lines in order to keep the USF solvent.

This section removes the ability of the FCC to act of the recommendation of the Federal-State Joint Board on Universal Service advocating that universal service funds should be used only toward consumers' primary telephone line.

This is a significant limitation on potential action by the FCC. I object to this provision because it should have been considered, reviewed and acted upon by the members of the Committee of jurisdiction, the Senate Committee on Commerce, Science and Transportation, before being enacted into law. No member of the Committee approached me requesting to move legislation on such a limitation. I am unable to state whether this is a good policy decision because, similar to the FCC, the Committee of jurisdiction was not provided the courtesy to review and consider the proposed policy change.

In CJS, missing page 60—which covers funding for NTIA, which is under Commerce jurisdiction, so unknown funding levels.

As Chairman of the Committee of jurisdiction over National Telecommunications and Information Administration (NTIA), I regret that I am unable to comment on the appropriations levels for this administration because the levels were not made available in the text of the bill. Although this may be merely a clerical error, it is unacceptable, nonetheless.

In CJS, section 112—Alaska Telecommunications provisions to resolve several pending FCC proceedings involving investigations into Alaska rate tariffs and reviews Alaska telecommunication rates.

This section, slipped into the omnibus under the cloak of darkness, removes the ability of the FCC to act on several pending proceedings affecting

the rates of Alaskan telecommunications services.

I object to this provision because it should have been considered, reviewed and acted upon by the members of the Committee of jurisdiction, the Senate Committee on Commerce, Science and Transportation, before being enacted into law. Additionally, the FCC was nearing competition of the proceeding and the Committee could have acted in response to the FCC's actions if Congress found the outcome to be detrimental to Alaskan consumers. No member of the Committee approached me requesting to move legislation to end the tariff investigation and other proceedings involving Alaska telecommunications services. While I understand both parties to the tariff dispute support the provision included in the omnibus, I am unable to state whether I support it because the Committee of jurisdiction was not provided the courtesy to hold hearings and mark up legislation on the issue.

I object to the inclusion of this legislation in the omnibus. I actually support the content of this legislation, which is the product of lengthy negotiations among the Judiciary and Commerce Committees of both Houses. The bill ensures that rural consumers will continue to enjoy network programming, and for the first time, provides a means for these same consumers to enjoy high definition network programming via satellite. I nevertheless regret that this important policy was added to an appropriations vehicle.

The PRESIDING OFFICER. Who seeks time? The Senator from Alaska.

Mr. STEVENS. I send to the desk a joint resolution.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senate is in a period for morning business with Senators allowed to speak for up to 10 minutes.

Mr. STEVENS. I withdraw that.

The PRESIDING OFFICER. Who seeks time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, earlier the Senator from Idaho indicated this provision that would allow Appropriations staffers, the designees of the Appropriations Committee leadership, to access any tax return in the country would not become law. I listened to that. I hoped it was not the case. But I don't see any way that, if we pass this bill tonight, this provision does not become law.

Let me just go through where we are, at least my understanding of where we are. I would like to be corrected if I am wrong.

In this bill, these 3,000 pages that have been put before us today and we are asked to vote hours later, that spends \$388 billion, there is a provision that says the agents of the Appropriations Committee can have access to any tax return in the country and that there is no legal protection for them. That is the provision that is here. It

has already passed the House of Representatives. If we pass this bill tonight and it goes to the President for signature, that will become the law of the land.

I am understanding that Senator STEVENS, acting in good faith here—and he is acting in good faith and he is, I think, doing his level best to try to correct this—is proposing the passage of a concurrent resolution that would pass here.

Mr. STEVENS. Joint.

Mr. CONRAD. A joint resolution removing this provision. But that would be subject to the House acting and the House will not be prepared to act, I am told, until December 6. At the same time, we are running out of time on a continuing resolution and the President will be required to sign this Omnibus bill, I am told, before that continuing resolution removing this power, this ability to have agents look at any tax return in the country and release them without any penalty, without any civil penalty, without any criminal penalty.

When the Senator from Idaho says this will not become law, that is not right. This will become law if we pass this tonight. That is my understanding. I would like to be corrected if that is not the case.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator is correct that the provision would stay in the law. But we will pass a joint resolution. It is my understanding that will be passed and the Speaker of the House and chairman of the Appropriations Committee guaranteed this would be the case when the House reconvenes.

Meanwhile, it is our understanding that the President of the United States will issue a statement when he signs the bill that this section shall be disregarded because of the action taken by the Senate and the commitment of the House to act when it comes back. I think that is a good-faith effort to correct a serious mistake, a terrible mistake.

The Senator is right about the section. But I want to assure him the implication that either the chairman of the House committee or I, as chairman of this committee, ever wanted such authority is wrong. We never sought it. It was an accident, a mistake. A representation was made by one staff member that the front office in the other body had cleared this. On the basis of that, it was put into the section.

When it was before the bipartisan staff in both Houses, it was not even noticed. Under the circumstances, it is something the Senator from Arizona criticized and I too criticize it. It is something contrary to anything I have ever had happen in over 30 years on the committee. But it can be corrected and the law will not be permitted.

By the way, it takes the request of the chairman of either House to trigger it. We have stated categorically we will

not trigger this section. It is not available to anyone else. It is available only to the chairman of the House Appropriations Committee or the chairman of our Senate committee. And I have stated categorically on the record we would never use that. We didn't seek this authority. We are as appalled as the Senator from North Dakota. I hope you would rely upon our good faith to try to correct the staff error. Certainly no Member of Congress that I know of, other than the person who originally suggested it in the House, ever sought this. I am led to believe the language is not what he sought, but it is one of those things that happened at the last minute. It is a terrible thing.

We are in this situation because we never had a budget. We never passed our appropriations bills at the time we should have. We had to construct a ceiling we would operate under. Senator BYRD and I have tried our best to comply with the circumstances. But we didn't get the chance to even look at it—the Appropriations Committee on these nine bills—until after we came back from the August recess. We have been under pressure now since we came back. We have been under pressure now for 3 days. Some of my people haven't slept for 2 days, and one of them made a mistake—one of my staff. I can tell you he had not had sleep for 2 days.

This is a serious situation. It shouldn't happen. The Senator from Arizona is right. It should never happen. I pray to God it will never happen. It will not happen under my watch. My watch is over tonight, but I guarantee you that during the time I am chairman, I will not use this authority and it will be taken out of this bill.

The first reaction of the chairman from Florida, BILL YOUNG, was, take it out; take it out now. I share that reaction.

I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first of all, let me say that I have no question about the good faith of the Senator from Alaska—none. His word is good for me because he has demonstrated repeatedly to me his word is good.

The problem I have is I am about to be asked to vote for this measure and it will become law. The President can make any declaration he wants upon signature of the law that he doesn't consider it effective. That has no legal standing. The fact is the House has passed this. If we now pass it, and the President signs it before that joint resolution is effective, this will become the law of the land. And it is a mistake. It shouldn't happen. It should never have happened.

I know this was not moved by any Member of the Senate. I know this happened as a result of something that happened on the House side. Staff were involved on the House side, and misrepresentations were made about clearances being made.

The fact is this is in the bill. We have to think about what this law provides.

This says an agent of the Appropriations Committee could get unlimited access to tax returns in this country and have absolutely no legal penalty for releasing it to the public. They could call up the tax return of any Member of the U.S. Senate, any individual in this country, any writer for any newspaper.

Mr. STEVENS. Will the Senator yield?

Mr. CONRAD. Yes. I would be happy to yield.

Mr. STEVENS. I don't read anything in this provision that either chairman can release the information. He makes the assertion that if we use this power, we can release it. There is no such provision.

Mr. CONRAD. I beg to differ with the chairman. I am an old tax administrator. I know tax law. This provision says very clearly:

Notwithstanding any other provision of law governing the disclosure of income tax returns or return information, upon written request of the Chairman of the House or Senate Committee on Appropriations, the Commissioner of the Internal Revenue Service shall hereafter allow agents designated by such chairman access to any Internal Revenue Service facilities and any tax returns or return information contained therein.

Because it says "notwithstanding any other provision of law," that sweeps aside all of the privacy protections that are available in law.

Mr. Chairman, I have great respect for you. This provision is clear in terms of its legal impact.

Mr. STEVENS. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. STEVENS. If the Senator says he has respect for this Senator, he will believe me. We didn't ask for that authority. We would not use that authority. We detest this section, and I am tired listening to people say somehow or other we intended to use it. We don't intend to use it. It is going to come out of this bill. It is going to come out of this law and it is not going to be used. I don't know how I can be any firmer. I am tired of it. We have been working hard on this bill. We did not do this. To imply we did—either Congressman YOUNG or I did it—is wrong, wrong.

Mr. CONRAD. I did not imply that the Senator did this.

Mr. STEVENS. The Senator implied that I will use it; that I would disclose it.

Mr. CONRAD. Senator, it is in the law if we pass this bill tonight. Senator, I say through the Chair, the point is this: I am not questioning the chairman. I am not. But I am questioning this body tonight passing this legislation that has already been passed by the House, and it becomes the law of the land upon the signature of the President of the United States. That is wrong.

Part of the reason we are here is because we have a process that has broken down. We have a process that has produced a 3,000-page bill that gets slapped on our desk and we are told to

vote on it in a few hours without knowing what is in it. It is wrong. It is wrong.

Mr. STEVENS. Will the Senator yield again?

Mr. CONRAD. I would like to finish and then I would be happy to yield for any question of the Senator.

Let me say this: For a number of years we have had this process ongoing. In 1988, President Reagan, in a State of the Union Message, told us never again; don't send me another bill like it because I am not going to sign it. He was right. He said in his 1988 State of the Union that you have sent up here a 1,100-page bill and you had 3 hours to review it. You don't know what is in it. Nobody knows what is in it. Don't do it again. Don't send me another bill like this because I will not sign it.

Here we are tonight. We don't have a 1,200-page bill, or 1,100—we have 3,300 pages. We don't know what is in this bill. There are a handful of people who know what is in this bill. Most of us don't know what is in this bill. If somebody, some sharp staff had not caught this, we would be making this the law of the land.

Now I find out there is no way to prevent this from becoming the law of the land if we pass this bill tonight.

That, to me, is a mistake.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to state again the protection for the minority on this bill was in the people who were with my staff when it was read through. If there was a mistake in it, it is borne equally by your side of the aisle as well as ours. I have accepted the total responsibility as chairman. No question about it; a bad mistake was made. But let me go back.

Senator BYRD and I begged for a budget resolution in May, in June, in July, and when we came back in September. We didn't get a budget resolution. The Senator is on the Budget Committee. Why didn't we get a budget resolution? We said if we don't, we will have another one of those nights when we will have a big Omnibus appropriations bill. I preached it right here on the floor. I will dig it out, if you want. I said if you don't, we will have a midnight session again trying to get a bill through that no one knows what is in it because we have had to move and move these limits.

There are provisions in this bill that must become effective or people will lose rights as of Sunday. We are trying our best to get it done. A mistake has been made. I hope the Senate would take my word. It is my word. I don't think I have ever broken my word to any Member of this Senate. That was a mistake. It says as chairman of the Appropriations Committee I can trigger that and ask for access. I have said I would never do it. I did not seek it. The chairman of the House did not want it. He is appalled by it. It is a provision

that, even if it becomes law, cannot be utilized except by BILL YOUNG and me, TED STEVENS. We have said we will not do it.

Isn't that enough? Isn't that enough? Do I have to get down on my knees and beg the other side?

This bill must become law because people have rights that will be affected by it if we don't pass it until we come back in December. That is all there is to it. It is not my fault. I hate working under these pressures. My staff hates it. As a matter of fact, it is a terrible way to do business, but I had nothing other than to try to do it.

As a matter of fact, we had to take one bill and do it in the last 3 days because we could not get agreement between the people involved. It has been a terrible bill to handle.

I hope the Senate appreciates the work that people have done this last week to try and get to the point where we could pass it before we left.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, with respect to the Budget Committee, I am on the Budget Committee. I am not the chairman of the Budget Committee. Our friends on the other side were in control of the House and the Senate. Failure to get a budget resolution was not on our side. Failure to get a budget resolution lay on their side.

But that is not the point of this discussion tonight. The point of the discussion tonight is we have a process that is broken. There is no better evidence than the fact that we have a provision that would open the tax returns of every American, every American company, to some staffer in the Appropriations Committee, with absolutely no penalty on that staffer if they were to release the private information contained in that individual's tax return. That is wrong.

The chairman of the committee says, I never sought this power. I believe him. He said the chairman of the House never sought the power. I believe him.

The fact is, the provision is here. Somebody wanted it. Somebody got it in here. The fact is, the current chairman of the committee is not going to be the new chairman of the committee. And the same is true on the House side. These two Senators have said they would not use the power. How about the two Members who are going to be the chairmen? They would be able to use the power because if we vote for this bill tonight, with this mistake in it, unfortunately, it will become law.

I don't want to explain to my constituents back home that every tax return in America is open to some staffer and there is absolutely no legal penalty for them making it public. That is a serious mistake. There is a desire to take this out. Let's take it out.

I ask unanimous consent these provisions be deleted from this bill. I am specifically referring to section 222 of the provisions that are found on page 1,112 of the bill.

Mr. STEVENS. I object.

Mrs. BOXER. Mr. President, I am a little confused. I am really confused.

Senator CONRAD, who brought this issue to the Senate's attention, solves the problem by asking unanimous consent to take this offensive language out of the bill, this "Big Brother is watching you and your tax returns" out of the bill, and the passion showed by Senator STEVENS in his previous remarks, I was really taken in by them. I felt that he was really upset and that he wanted to resolve this matter. Yet we have an objection to take this out.

If the House went home, bring the House back. They shouldn't have gone home with this terrible provision pending.

I don't quite understand what just happened. I guess there will be an explanation, but let the record be clear there was objection from the Republican side to take out this offensive language which gives permission for the chairman of the Senate and House Appropriations Committee to designate staff to look at any American's tax return, any business tax return they decide they want to spy on.

There was a unanimous consent request to delete that by Senator CONRAD, and there was an objection. I am confused. We could have resolved that, and it could have been taken care of, but instead we have an objection. I am sure there is a good reason. Maybe Senator STEVENS will explain it, but deleting the language resolves it on our side, and we can get on with the bill.

I have a problem with the health issue in this bill that is going to adversely affect women of America. I talked to Senator STEVENS. He was very honest and said it had to stay in because of the House, but I was able to work with Senator REID and Senator FRIST and we got agreement and I will not object because we will have a chance to vote up or down on that offensive legislation sometime before April 30.

Senator CONRAD made a very wise motion to, essentially, ask unanimous consent to remove the offending language, and we could have resolved it.

I am confused.

I yield the floor so my colleague can have his own time.

The PRESIDING OFFICER. Who seeks time?

MAKING A CORRECTION IN THE CONFERENCE REPORT TO ACCOMPANY H.R. 4818

Mr. STEVENS. I send a joint resolution to the desk and I ask unanimous consent we now proceed to this joint resolution, that it be read three times and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object.

Mr. STEVENS. I renew my request, Mr. President.